with sections 751(c) and 777(i)(1) of the Act.

Dated: October 28, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–412–801]**

### Final Results of Expedited Sunset Reviews: Antifriction Bearings From the United Kingdom

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

**ACTION:** Notice of final results of expedited sunset reviews: antifriction bearings from the United Kingdom.

**SUMMARY:** On April 1, 1999, the Department of Commerce (the ''Department'') initiated sunset reviews of the antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings (collectively, antifriction bearings) from the United Kingdom (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

**EFFECTIVE DATE:** November 4, 1999.

### Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

### Scope

The products covered by these orders are antifriction bearings (''AFBs'') from the U.K., which includes ball bearings (''BBs'') and cylindrical roller bearings (''CRBs'') and parts thereof. For a detailed description of the products covered by these orders, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on antifriction bearings from Japan, publishing concurrently with this notice.

### History of the Order

The antidumping duty orders on antifriction bearings from the United Kingdom were published in the **Federal Register** on May 15, 1989 (54 FR 20910).[1] In those orders, the Department announced the weighted-average dumping margins for the following companies and all others:

| Company | Ball bearings (''BBs'') | Cylindrical roller bearings (''CRBs'') |
|---|---|---|
| Barden Corporation (U.K.) Ltd.; the Barden Corporation.(Barden) * | | |
| NSK Bearings Europe, Ltd. RHP Bearings; RHP Bearings, Inc. (NSK/RHP) | 44.02 | 43.36 |
| SKF (U.K.) Limited (SKF) | 61.14 | (**) |
| All-others | 54.27 | 43.36 |

* Barden was not subjected to the original antidumping investigation.
** SKF made no shipments or sales pertaining to this category during the period of investigation.

[1] See Final Determinations of Sales at Less than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the United Kingdom, 54 FR 19120 (May 3, 1989), as amended, Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings, and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom, 54 FR 20910 (May 15, 1989). The crux of the amendment was to reflect the International Trade Commission's determination that critical circumstances for certain respondents did not exist, which was contrary to the affirmative findings thereof by the Department, and to correct ministerial errors.

The Department has conducted numerous administrative reviews since that time.[2] The order remains in effect for all manufacturers and exporters of the subject merchandise. We note that, in the 1995–1996 and 1997–1998 administrative reviews, the Department found that duty absorption had occurred with respect to NSK/RPH and Barden's exports of the subject merchandise to the United States.[3]

## Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on AFBs from the U.K. (64 FR 15727) pursuant to section 751(c)(6)(A)(i) of the Act. The Department received Notices of Intent to Participate on behalf of Link-Belt Bearing Division (''Link-Belt''), The Torrington Company (''Torrington''), MPB Corporation (''MPB''), Roller Bearing Company of America, Inc. (''RBC''), NSK Corporation (''NSK''), and New Hampshire Ball Bearings, Inc. (''NHBB'')[4] on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Also, the Department received a Notice of Intent to Participate on behalf of The Barden Corporation (U.K.) Ltd. and The Barden Corporation (collectively referred to as ''Barden'') on April 14, 1999.[5]

We received complete substantive responses on behalf of Torrington, RBC, and NHBB on May 3, 1999 and on behalf of NSK on April 30, 1999. Torrington, RBC, NSK, and NHBB claimed interested-party status as wholesalers, manufacturers, and producers of domestic like products under section 771(9)(C) of the Act. The Department received a complete substantive response from Barden on May 3, 1999. Barden claimed interested-party status under section 771(9)(A) of the Act as a producer, exporter, and importer of the subject merchandise. The Department received all the above substantive responses within 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i).

Also, except NHBB, all the above interested parties, both domestic and respondent, filed rebuttal comments according to section 351.218(d)(4) of the Sunset Regulations. Moreover, NSK and NHBB filed additional comments purportedly pertaining to the propriety of the Department's decision to execute an expedited, 120-day, sunset review.[6]

The Department also received, on May 3, 1999, a Waiver of Participation on behalf of SKF USA Inc. and SKF (U.K.) Limited (collectively referred to as ''SKF''), within the deadline and according to the contents specified in section 351.218(d)(2) of the Sunset Regulations. SKF claimed interested-party status under section 771(9)(A) of the Act as a foreign producer and importer of the subject merchandise.

On May 21 and May 24, 1999, we informed the International Trade Commission (''Commission'') that, on the basis of inadequate response from respondent interested parties, we were conducting expedited sunset reviews of these orders consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset reviews of the antidumping duty orders on AFBs from the U.K. are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[7]

## Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty

[2] See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 56 FR 31769 (July 11, 1991), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al., Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 32755 (June 17, 1997); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360 (June 24, 1992), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 57 FR 32969 (July 24, 1992), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews, 57 FR 59080 (December 14, 1992), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews, 63 FR 8908 (February 23, 1998); Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews, 58 FR 42288 (August 9, 1993), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews, 63 FR 18877 (April 16, 1998); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900 (February 28, 1995), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the United Kingdom; Notice of United States Court of International Trade Decision, 62 FR 42745 (August 8, 1997), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 45795 (August 29, 1997); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom, 64 FR 49442 (September 13, 1999); Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 61963 (November 20, 1997); Antifriction Bearings (Other Than Tapered Roller Bearings) and Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 63 FR 33320 (June 18, 1998), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy, Romania, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 63 FR 40878 (July 31, 1998). Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

[3] See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997); and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

[4] In their Notices of Intent to Participate, both NSK and NHBB stipulated that they are affiliated with British exporter(s) and are domestic importers of the subject merchandise.

[5] Although the Sunset Regulations do not require a respondent interested party to file a Notice of Intent to Participate, Barden filed the notice anyway.

[6] See adequacy section of this notice, infra.

[7] *See* Tapered Roller Bearings, 4 Inches and Under From Japan, *et al.*; Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 42672 (August 5, 1999).

[8] However, when NSK presents information that is relevant with respect to the sunset reviews, it

[6] See adequacy section of this notice, infra.

[7] *See* Tapered Roller Bearings, 4 Inches and Under From Japan, *et al.*; Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 42672 (August 5, 1999).

orders would be likely to lead to the continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning adequacy, continuation or recurrence of dumping, and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

**Adequacy**

As noted above, we notified the Commission that we intended to conduct expedited reviews of these orders. On June 10, 1999, we received comments on behalf of NHBB and NSK regarding our determination to conduct expedited reviews. Rather than arguing the propriety of the Department's decision to execute an expedited sunset review, both NSK and NHBB offered new arguments. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various antidumping duty orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (*see* section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is no domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at 46) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

**Continuation or Recurrence of Dumping**

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis. (See section II.A.2.) In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. (*See* section II.A.3.)

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant reviews, the Department received a waiver of participation from one respondent interested party, SKF. However, at the same time, the Department also received a complete substantive response from another respondent interested party, Barden.

Torrington and MPB assert that dumping of the subject merchandise would resume if the antidumping duty orders were revoked. (*See* May 3, 1999, joint substantive response of Torrington and MPB at 6.) In support of their assertion, Torrington and MPB point to continued dumping of the subject merchandise at levels above *de minimis* after the issuance of the orders. Likewise, while urging the Department to conclude that the dumping of the subject merchandise would continue or recur if the orders were revoked, RBC claims that dumping margins have continued to exist above the *de minimis* level since the issuance of the orders. (*See* May 3, 1999, Substantive Response of RBC at 4 and 5.)

With respect to the import volumes of the subject merchandise, while insisting that the consideration of the import volumes is irrelevant because dumping of the subject merchandise did not cease after the issuance of the orders, Torrington and MPB argue that the post-order declines in import volumes of the subject merchandise provide additional support for their claim that resumption of dumping is likely were the orders revoked. (See May 3, 1999, Substantive Response of Torrington at 9.) Between 1988 and 1989, Torrington and MPB indicate that imports of the BBs from the United Kingdom fell 32 percent in value. *Id.* Also, Torrington and MPB state that the post-order import value of CRBs in each year is lower than the pre-order import value thereof. *Id.* at 10.

On the other hand, NSK argues that revocation of the orders is not likely to lead to the recurrence of dumping of the subject merchandise. (See April 30, 1999, Substantive Response of NSK at 3.) In support of its contention, NSK appears to argue that the dumping margins of the subject merchandise have declined over time and the market share of the subject merchandise remained steady.[8] *Id.* at 14. NSK advocates that the Department's methodology in calculating the weighted-average dumping margins in the original investigation was flawed,[9] that the domestic interested parties lack domestic industry support (therefore their opposition to revocation of the

[8] However, when NSK presents information that is relevant with respect to the sunset reviews, it does not put forth order-specific factual information or evidence. In other words, NSK only makes general references. For example, NSK states that the dumping margins for many of the most significant foreign producers and exporters have decreased over time (NSK's substantive response at 5) and that dumping margins from various countries have declined while subject importations have remained at or around 20 percent of the U.S. market share (*id.* at 14).

[9] In effect, NSK is asking the Department to retroactively apply a post-World Trade Organization (''WTO'') methodology to a pre-WTO antidumping duty determination.

order is insufficient),[10] and that conditions and trends in the U.S. market for bearings are such that producers of the domestic like product prefer the U.S. domestic production.[11] Therefore, by incorporating all the above factors, the only logical conclusion that can be drawn, according to NSK, is that continuation or recurrence of dumping is unlikely if the orders are revoked.

Similarly, NHBB argues that revocation of the orders would not result in continuation or recurrence of dumping. (*See* NHBB's May 3, 1999, substantive response at 5–6.) According to NHBB, internationalization of ball bearing production a significant portion of bearing producers from the countries subject to antidumping duty orders have production facilities in the United States. Thus, NHBB claims that the profit motive of those foreign parent companies would preclude any future dumping because such dumping would undercut the U.S. domestic price structure, thereby causing injury to the very industry of which foreign owners are a part. *Id* NHBB also asserts that import volumes have not declined since the time of the original investigation while, at the same time, dumping margins have declined significantly. *Id*.

Barden, on the other hand, notes that the likely effects of revocation would be a status quo at current low dumping margins or even further reduced *de minimis* levels. (*See* May 3, 1999, Substantive Response of Barden at 5.) Barden acknowledges that the value and volume of imports of the subject merchandise declined substantially immediately after the issuance of the orders and that its export volume of the subject merchandise in 1998 is much less than that of 1987 before the order. *Id*. at 6.

As for the consideration of the weighted-average dumping margins, although Barden deems its most recently determined dumping margin of 2.89 percent statistically insignificant and *de minimis*,[12] Barden does not negate outright the existence of current dumping margin (*Id*. at 5.) nor does Barden try to argue that dumping of the subject merchandise did not exist for any other investigated or reviewed periods.

Barden spends the majority of its resources and energy trying to convince the Department why Barden would not increase, and perhaps may even decrease, its dumping margins in the future. In support of this notion, Barden stresses that it has shifted and continues to shift its production of the subject merchandise to its U.S. facilities, that its dumping margins have been decreasing over time, that it should not bear the margins from the original investigation (because it did not participate in the original investigation), that removing home market sales below the cost of production in the profit component of constructed value is utterly improper and bears absolutely no relation to the actual, profit realized on sales of foreign like product, and that the subject merchandise, which is a highly differentiated and mature industrial product with multifarious application, tends to breed a certain percentage of random or intrinsic dumping. *Id*. at 6–9.

In its rebuttal, Torrington argues that Barden's own admission of decreased import volumes of the subject merchandise after the issuance of the orders strongly supports Torrington's suggestion that continuation or recurrence of dumping is likely should the Department revoke the orders. (*See* May 12, 1999, Rebuttal Comments of the Torrington at 14.) Torrington again insists that continued dumping at levels above *de minimis* since the issuance of the orders should lead the Department to determine that recurrence or continuation of dumping likely. *Id*.

Similarly, in its rebuttal comments, RBC argues that the Department should determine that revocation of the orders is likely to lead to the continuation or recurrence of dumping of the subject merchandise because the import volumes of the subject merchandise substantially declined and dumping continued after the issuance of the orders. (*See* May 12, 1999, Rebuttal Comments of RBC at 2–3.)

NSK argues, while insisting that the Department should conduct a full sunset review rather than an expedited (120-day) review, that the major domestic bearing companies do not agree with the position of Torrington and RBC that revocation of the orders would be likely to lead to continuation or recurrence of dumping.[13] (*See* NSK's May 12, 1999, Rebuttal Comments at 2–3.) NSK also claims that Torrington's other-factors argument, which was primarily based on a history of below-cost-sales argument, is irrelevant to the instant review.[14] *Id*. at 6–7. Last, NSK insists that the lack of industry support should be a crucial factor for the Department to consider in determining the sunset review.[15] *Id*. 7–8.

In its rebuttal, Barden notes that, between 1993 and 1997, imports of the subject merchandise increased 50 percent and that dumping margins have declined over time. (*See* May 6, 1999, Rebuttal Submission of Barden, at 4.) Barden argues that the Department should acknowledge that, during the above five-year period, imports of the subject merchandise have increased or remained stable and that dumping margins have steadily decreased. *Id*. at 6. Therefore, should the orders be revoked, Barden contends, dumping is not likely to recur or continue. *Id*.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to the weighted-average dumping margins in previous administrative reviews, the Department agrees with the domestic interested parties that the weighted-average dumping margins at levels above *de minimis* have persisted over the life of the orders and currently remain in place for all U.K. producers and exporters of the subject merchandise, in general, and Barden, in particular.[16]

[10] But see section 351.281(e)(i)(A) of the Sunset Regulation. A complete substantive response from at least one domestic interested party would suffice for the Department to conclude that the domestic interested parties have provided adequate response to a notice of initiation. Also, *see* adequacy section of this notice.

[11] As a result, NSK argues that it has expanded its BB production facilities in Ann Arbor, Michigan, and Clarinda, Iowa, and has built new facilities in Franklin and Liberty, Indiana. According to NSK, these were expanded to strengthen its competitiveness as a U.S. producer of BBs in the U.S. market.

[12] However, Barden's suggestion that 2 percent is the *de minimis* standard in an administrative review does not comport with law. In an administrative review, the Department will treat as *de minimis* any weighted-average dumping margin that is less than 0.5 % *ad valorem*s or the equivalent specific rate. *See* section 351.106(c)(1) of the Sunset Regulations.

[13] NSK identifies NHBB, NTN Bearing Corporation of America, FAG Bearings Corporation, Koyo Corporation of U.S.A., NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation, and NTN-BCA Corporation as opposing Torrington's view. NSK deems this list overwhelming evidence of record that recurrence or continuation is not likely if the orders were revoked.

[14] According to NSK, the fact that British producers/manufacturers could sustain or even increase their exports of the subject merchandise to the United States while, at the same time, substantially reducing the weighted-average dumping margins would indicate that a history of below-the-cost-sale argument does not amount much.

[15] *See*, however, footnote 11, *supra*.

[16] *See* footnote 2 and 3, supra. The relevant rates for Barden in the BB order and the subsequently

Continued

In addition, consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after the issuance of the orders. The data supplied by the domestic interested parties and those of the United States Census Bureau IM146s and the Commission Data indicate that, since the imposition of the orders, the import volumes of the subject merchandise have declined substantially. Although the import volumes of the subject merchandise during the period 1994–1998 have stabilized and shown an increasing trend, as Barden argued in its substantive response, the highest volume since the issuance of the orders, that of 1997, is still well below the pre-order import volume. (*See* May 3, 1999, Substantive Response of Barden at 6.) Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the orders.

Given that dumping has continued over the life of the orders and that import volumes of the subject merchandise decreased significantly after the issuance of the orders, the Department agrees with Torrington, MPB, and RBC that dumping is likely to continue if the orders were revoked.

Insofar as the Department made this determination based on the fact that dumping continued at levels above *de minimis* and that the import volumes of the subject merchandise declined substantially after the issuance of the orders, it is not necessary for the Department to address Torrington's arguments regarding a history of below-cost-sales of the subject merchandise in the British market, NSK's contention that the U.S. market conditions and trends are such that future dumping of the subject merchandise is not likely, NHBB's claim that the shifts of production facilities by respondent interested parties and their consequent profit motive preclude future dumping, and Barden's stipulations that the exports of the subject merchandise invariably engender a certain percentage of random or intrinsic dumping, nor is it necessary for the Department to discuss any effects thereof upon this finding.

**Magnitude of the Margin**

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department will normally provide a margin based on the all-others rate from the investigation. (*See* section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations. (*See* sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its notice of the antidumping duty orders on antifriction bearings from the U.K., established both company-specific and all-others weighted-average dumping margins for the subject merchandise from the United Kingdom (54 FR 20910, May 15, 1989).[17] Since the antidumping orders, we have determined twice that duty absorption has occurred with respect to NSK/RHP and Barden's exports of the subject merchandise.[18]

In their substantive response, at 13–16, Torrington and MPB argue that the likely-to-prevail dumping margins, if the order were revoked, are either the ones determined for each company in the original investigation or the most recently calculated margins adjusted to incorporate duty-absorption rates, whichever are larger. Similarly, RBC raises the duty-absorption issue; however, in the end, RBC just advocates that the Department should apply the margins from the original investigation. (*See* May 3, 1999, Substantive Response of RBC at 6.)

NSK advocates that the Department should reject the weighted-average dumping margins determined in the original investigation and should instead calculate the likely-to-prevail margins based on the average-to-average methodology.[19] (*See* NSK's substantive response at 5 and 7.) NSK argues that, if the Department follows NSK's suggestion and use the average-to-average method, the Department would find that the likely-to-prevail dumping margins would be *de minimis*.[20] *Id.*

NHBB insists that it would be illogical for respondent companies with such significant investments in the United States to undercut their interests in the United States by dumping in the future. (*See* NHBB's May 3, 1999, substantive response at 6–8.) Also, NHBB claims that, since the dumping margins have declined significantly from the margins found in the original investigation, the Department should not report margins from the original investigation. *Id.* Furthermore, in light of changes of methodology in calculating antidumping duty margins to reflect the WTO agreements, NHBB believes that it would be unfair to use the rates found in the original investigation, which preceded the WTO agreements. *Id.*

Also, NHBB argues that the Department arbitrarily presumed the existence of duty absorption in the 1995–1996 and 1997–1998 administrative reviews, thereby making it impossible for respondent interested parties to rebut. To wit, NHBB contends that the Department's current approach pertaining to duty absorption is unreasonable, illogical, circular, groundless, without statutory support, and therefore contrary to law. *Id.* at 8–10.

Meantime, in its substantive response, at 9, Barden argues that the dumping margin that is likely to prevail is either 2.89 percent found in the most recent administrative review or one that is even lower because its dumping margins have been declining while at the same time its export of the subject merchandise remained steady.

In its rebuttal, Torrington argues that Barden's suggestion to select a more recently calculated margin ignores the Department's duty-absorption findings. (*See* Torrington's rebuttal response at 4 and 14.) Moreover, even in the absence of duty-absorption findings,[21] Torrington contends that the Department should select the investigation margins as the margins which would likely to prevail because such margins reflect the behavior of exporters without the discipline of the orders in place. *Id.*

Similarly, RBC argues, in its rebuttal, that the Department should choose the margins from the original investigations because such margins are the best gauge for understanding the behavior of

administrative reviews are as follows: all others-rate for BBs in the order—54.27; first review—14.73; second review—0.85; third review—7.57; fourth review—4.65; fifth review—1.48; sixth review—did not participate; seventh review—3.99; eighth review—6.63; ninth review—2.89.

[17] *See* footnote 1, supra.

[18] *See* footnote 3, supra.

[19] As for reasons, NSK claims that the Department departed from its standard procedure in the investigation in order to complete the case in a fair and timely manner, that the Department's liberal usage of best information available seriously skewed the results of the investigation, and that the Department did not use an average-to-average methodology in calculating the margins. However, *see* the SAA at 891. (The SAA explicitly and unequivocally prohibits the Department, in a sunset review, from calculating margins except under the most extraordinary circumstances.)

[20] According to NSK, this would result for many of the interested parties that export most, if not all, the ball bearings from relevant countries. Therefore, the Department is not even sure whether British producers/manufacturers, such as Barden, are included in NSK's argument.

[21] In its rebuttal, Torrington rejects respondent's arguments, which denounce and reject the Department's duty-absorption findings, by denoting the duty-absorption principle delineated in the Sunset Policy Bulletin.

exporters without the discipline of an order in place. (*See* RBC's rebuttal response at 3.) Also, RBC asserts that Barden's attempt to find a defect in the Department's calculation in determining weighted-average is not persuasive. *Id.*

NSK, in its rebuttal comments at 3–5, disagrees with Torrington's suggestion that the Department should consider the duty-absorption findings. Instead, NSK urges the Department to refrain from utilizing information obtained from the duty-absorption investigations which, according to NSK, violated the antidumping law.[22]

Similarly, in its rebuttal response at 2–6, Barden opposes Torrington and RBC's suggestion that the Department choose the margins from the original investigations as the likely-to-prevail margins because the margins determined in the original investigations are obsolete. Barden argues that because its dumping margins have declined and its imports have increased or remained stable, the Department should use more recently calculated margins. Barden asserts further that, in any event, there is no mandatory requirement that these original margins be selected as likely-to-prevail margins were the orders revoked—in short, the Department should not presume that dumping would continue at the original investigation margins. *Id.* In addition, Barden reiterates that the duty-absorption findings should not be used by the Department because the findings were not calculated in accordance with the statue.[23]

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations.

With respect to NSK and NHBB's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the dumping margins we calculated in the original investigations. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology. Since such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to Barden's argument that we should use a more recently calculated margin, we do not agree. By Barden's own admission, the import volume of the subject merchandise declined immediately after the imposition of the orders and thereafter stabilized at the lower level.[24] Moreover, during the period 1994 through 1995, the increases of Barden's export of the subject merchandise to the United States correspond with increased weighted-average dumping margins found by the Department. For example, after steady decline of the weighted-average margins, in the 1995–1996 administrative review, the Department found that Barden's margin increased from 1.48 percent to 3.99 percent. Coincidently, during the same period, Barden's exports increased. Similarly, Barden's further increase (from 3.99 to 6.63 percent) of the weighted-average margins during the 1996–1997 administrative review coincided with further increased imports of the subject merchandise. However, when Barden's weighted-average dumping margins declined (from 6.63 to 2.89 percent) in the 1997–1998 review, so did the import volume of the subject merchandise. Thus, Barden's situation does not merit consideration of a more recently calculated margin.

Accordingly, but for the consideration of duty-absorption findings, the Department would have determined that the likely-to-prevail dumping margins for all British producers/exporters are those from the original investigation were the orders revoked.[25]

Section II.B.3.b of the Sunset Policy Bulletin, the SAA at 885, and the House Report at 60, provide that, if the Department has found duty absorption, the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported to the Commission or the most recent margin for that company adjusted to account for the Department's findings on duty absorption. The Department explained that it normally will adjust a company's most recent margin to reflect its findings on duty absorption by incorporating the amount of duty absorption to those sales for which the Department found duty absorption.

In the most recent review,[26] the Department found that duty absorption existed on Barden's exports of BBs (19.43 percent) and NSK–RHP's exports of BBs (31.46 percent) and CRBs (47.88 percent) to the United States. Consistent with the statute and the Sunset Policy Bulletin, the Department will notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting its sunset review.

Consistent with the Sunset Policy Bulletin, we adjusted the most recent margins to account for duty-absorption findings:[27] for Barden, the adjusted rate for BBs is 3.45 percent; for NSK/RHP, the adjusted rates for BBs and CRBs are 27.63 percent and 72.65 percent, respectively. (See October 4, 1999, Memorandum to File Regarding Calculation of the Likely to Prevail

[22] NSK deems the Department' duty-absorption investigation *ultra vires*. Furthermore, NSK argues that, even if the Department was authorized to conduct such duty-absorption investigations, the Department's use of presumption in the investigation did not fulfill its legal obligations. Thus, NSK argues that the Department should wait until the court has ruled on this matter.

[23] *See* May 6, 1999, Barden's Rebuttal to Domestic Party Substantive Responses at 5. Barden considers the Department's interpretation, expressed in the Sunset Policy Bulletin, too expansive, thus unlawful in applying ''transition orders'' under 751(c)(6)(C) of the Act to duty absorption. In other words, Barden argues that the Department should not have done the duty-absorption investigations in administrative reviews that were initiated in 1996 and 1998. In addition, Barden argues that the methodology chosen by the Department in calculation of duty-absorption rates is arbitrary and capricious. Last, Barden notes its objection to the duty absorption findings is pending with the Court of International Trade. Therefore, it contends that the Department should not use the duty-absorption findings in the instant sunset reviews. *Id.* at 9–11.

[24] Barden notes that import figures are leveling off over the past five years after falling immediately after the issuance of the orders (*see* May 3, 1999, Substantive Response of Barden at 6).

[25] As for Barden's argument that it was not party to the original investigation, and therefore should not be subjected to the margins from the original investigation, section II.B.1 of the Sunset Policy Bulletin provides that for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all-others rate from the investigation. Inasmuch as Barden did not participate in the original investigation, the all-others rate from the original investigation, as amended, is the appropriate one to report to the Commission as the rate that is likely to prevail if the order is revoked.

[26] *See* Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

[27] With respect to methodology, also *see* Preliminary Results of Sunset Review: Porcelain-on-Steel Cooking Ware from Mexico, 64 FR 46651 (August 26, 1999), and Final Results of Expedited Sunset Review: Brass Sheet and Strip from Germany, 64 FR 49767 (September 14, 1999).

Margins.) For Barden's BBs, the all-others rate from the original investigation is higher than the absorption-adjusted rate. For NSK/RHP, the rate from the original investigation is higher than the absorption-adjusted rate for BBs, whereas the opposite is true for CRBs. Therefore, we will report to the Commission the rates as contained in the Final Results of Review section of this notice.

**Final Results of Review**

Based on the above analysis, the Department finds that the revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the margins listed below:

| Manufacturer/ Exporter | Margin (percent) | |
|---|---|---|
| | BBs | CRBs |
| Barden | 54.27 | ..... |
| NSK/RHP | 44.02 | 72.65 |
| All others | 54.27 | 43.36 |

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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