

export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. In this and future reviews, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (i.e., per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

#### 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publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each of the reviewed companies that received a separate rate in this review will be the rate listed in the final results of review (except that if the rate for a particular company is *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period of review; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the Vietnam-wide rate of 63.88 percent. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### REIMBURSEMENT OF DUTIES

This notice also serves as a final 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 POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

#### ADMINISTRATIVE PROTECTIVE ORDERS

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: March 17, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

#### Appendix I Decision Memorandum

##### GENERAL ISSUES:

COMMENT 1: SURROGATE FINANCIAL RATIOS

- A. BINOIC
- B. GEMINI

COMMENT 2: CEP PROFIT METHODOLOGY

COMMENT 3: PER-UNIT CASH DEPOSIT AND ASSESSMENT RATE  
COMMENT 4: WHOLE LIVE FISH SURROGATE VALUES

##### COMPANY-SPECIFIC ISSUES:

COMMENT 5: QVD

- A. QVD'S SALES TO BSF
- B. COLLAPSING QVD/DONG THAP AND THUAN HUNG
- C. COLLAPSING QVD/DONG THAP AND CHOI MOI
- D. INTERNATIONAL FREIGHT
- E. BANDING SURROGATE VALUE
- F. TAPE SURROGATE VALUE
- G. LABELS SURROGATE VALUE
- H. WATER SURROGATE VALUE

COMMENT 6: DONG THAP

- A. LABOR HOURS FOR CERTAIN WORKERS
- B. BYPRODUCTS
- C. CARTONS
- D. BROKEN FILLETS
- E. PALLETS AND PLASTIC SHEETS

COMMENT 7: THUAN HUNG

- A. LABOR HOURS RECONCILIATION
- B. ELECTRICITY
- C. WASTE

COMMENT 8: ESS

- A. BONA FIDE STATUS OF ESS'S SALES

- B. INDIRECT SELLING EXPENSES
  - C. BYPRODUCTS
  - D. WHOLE LIVE FISH FACTOR OF PRODUCTION
  - E. FISH OIL SURROGATE VALUE
- COMMENT 9: LIAN HENG
- A. CERTIFICATIONS
  - B. ASSESSMENT OF DUTIES
  - C. ASSESSMENT FOR CERTAIN INVOICES
  - D. APPLICATION OF AFA
  - E. SELECTED AFA RATE

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

A-588-804

#### Ball Bearings and Parts Thereof from Japan: Amended Final Results of Antidumping Duty Administrative Review Pursuant to Final Court Decision

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

**SUMMARY:** On August 30, 2002, the Department of Commerce (the Department) published *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 67 FR 55780 (August 30, 2002), as amended on October 15, 2002, by *Ball Bearings and Parts Thereof From Japan; Amended Final Results of Antidumping Duty Administrative Review*, 67 FR 63608 (October 15, 2002). The review covered the period May 1, 2000, through April 30, 2001. NTN Corporation (and its affiliates) and other parties appealed the results pertaining to subject merchandise from Japan. Because there is now a final and conclusive decision, the Department is issuing these amended final results of review. We will instruct U.S. Customs and Border Protection (CBP) to liquidate entries subject to these amended final results of review.

**EFFECTIVE DATE:** March 24, 2008.

**FOR FURTHER INFORMATION CONTACT:** FOR FURTHER INFORMATION: Catherine Cartos or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1757 or (202) 482-4477, respectively.

**SUPPLEMENTARY INFORMATION:** SUPPLEMENTAL INFORMATION:

## Background

On August 30, 2002, the Department published the final results of administrative reviews of the antidumping duty order on ball bearings and parts thereof from Japan for the period May 1, 2000, through April 30, 2001. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 67 FR 55780 (August 30, 2002) (*AFBs 12*). On October 15, 2002, the Department amended the final results. See *Ball Bearings and Parts Thereof From Japan; Amended Final Results of Antidumping Duty Administrative Review*, 67 FR 63608 (October 15, 2002) (*Amended AFBs 12*). NTN Corp., NTN Bearing Corp. of America, American NTN Bearing Manufacturing Corp., NTN Driveshaft, and NTN-BCA Corp. (collectively NTN) filed a lawsuit challenging the final results of *AFBs 12* as amended by *Amended AFBs 12*.

On August 20, 2004, the United States Court of International Trade (CIT) affirmed the Department's final results in part and remanded the review to the Department in part to correct certain ministerial errors concerning the treatment of NTN's freight and warehouse expenses. See *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312 (CIT 2004) (*NSK Ltd.*). Specifically, the CIT directed the Department to exclude NTN's export-price sales from the calculation of NTN's U.S. freight and warehouse expenses.<sup>1</sup> In accordance with the CIT's remand order in *NSK Ltd.*, the Department filed its remand results on October 19, 2004. In those remand results, the Department excluded export-price sales from the calculation of U.S. freight and warehouse expenses and recalculated NTN's margin accordingly.

On January 27, 2005, the CIT sustained the Department's final results of redetermination. See *NSK Ltd. v. United States*, 358 F. Supp. 2d 1313 (CIT 2005). NTN appealed the portion of the CIT's decision in which it sustained the Department's use of facts otherwise available and adverse inferences when determining NTN's antidumping duty margin. NTN did not appeal the CIT's decision with respect to the remand determination.

On March 7, 2007, the United States Court of Appeals for the Federal Circuit

(CAFC) affirmed the CIT's decision. See *NSK Ltd. v. United States*, 481 F.3d 1355 (CAFC 2007). On May 3, 2007, the CAFC denied a rehearing request.

On July 11, 2007, the Department published amended final results pertaining to NTN for the period May 1, 2000, through April 30, 2001. See *Ball Bearings and Parts Thereof from Japan: Amended Final Results of Antidumping Duty Administrative Review*, 72 FR 37702 (July 11, 2007) (*Second Amended Final Results*). Because the Department published the *Second Amended Final Results* mistakenly before a final and conclusive court decision, on July 23, 2007, the Department rescinded the *Second Amended Final Results*. See *Ball Bearings and Parts Thereof from Japan: Rescission of Amended Final Results of Antidumping Duty Administrative Review*, 72 FR 40113 (July 23, 2007).

On September 28, 2007, NTN filed a petition for a writ of certiorari with the United States Supreme Court in connection with the final results of the 2000–2001 administrative review of the antidumping duty order on ball bearings and parts thereof from Japan. The two issues NTN raised in its petition for a writ of certiorari were the Department's treatment of non-dumped sales and the Department's use of facts otherwise available and adverse inferences when determining NTN's antidumping duty margin.

On January 22, 2008, the United States Supreme Court denied NTN's petition for a writ of certiorari. Therefore, there is now a final and conclusive court decision in this case.

## Amendment to Final Results

We are now amending the final results of this review to reflect the final and conclusive decision of the CIT. Our revised calculations for NTN changed the weighted-average margin for ball bearings and parts thereof from Japan from 9.34 percent to 9.30 percent for the period May 1, 2000, through April 30, 2001. The Department will instruct CBP to liquidate entries of subject merchandise from Japan from NTN during the review period in accordance with these amended final results of review. We intend to issue the assessment instructions to CBP 15 days after the date of publication of these amended final results of review.

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

Dated: March 17, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XG56

### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** NOAA's National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), U. S. Department of Commerce.

**ACTION:** Notice of receipt of a permit application; request for comments.

**SUMMARY:** Notice is hereby given that NMFS has received an application for a permit to conduct research for scientific purposes from Rosi Dagit, Senior Conservation Biologist for the Resource Conservation District of the Santa Monica Mountains, in southern California. The requested permit would affect the Southern California Coast Distinct Population Segment of endangered steelhead trout (*Oncorhynchus mykiss*). The public is hereby notified of the availability of the permit application for review and comment before NMFS either approves or disapproves the application.

**DATES:** Written comments on the permit application must be received at the appropriate address or fax number on or before April 23, 2008.

**ADDRESSES:** Written comments on the permit application should be sent to Matt McGoogan, Protected Resources Division, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Comments may also be sent using email ([FRNpermits.lb@noaa.gov](mailto:FRNpermits.lb@noaa.gov)) or fax (562–980–4027). The permit application is available for review, by appointment only, at the foregoing address.

**FOR FURTHER INFORMATION CONTACT:** Matt McGoogan at phone number (562–980–4026) or e-mail: [matthew.mcgoogan@noaa.gov](mailto:matthew.mcgoogan@noaa.gov).

### SUPPLEMENTARY INFORMATION:

#### Authority:

Issuance of permits, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531B1543) (ESA), is based on a finding that such permits: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed

<sup>1</sup> NSK Ltd., NSK Corp., NSK Bearings Europe, MPB Corp., 3Asahi Seiko Co., and Isuzu Motors, Ltd., also appealed the Department's determination but the dumping margins the Department had calculated for the period of review did not change as a result of the litigation.