

orders on ball bearings are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Laurie Parkhill, Acting Deputy Assistant Secretary, to Jeffrey May, Acting Assistant Secretary, dated June 9, 2003, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. This Decision Memo, which is a public document, is on file in the Central Records Unit (CRU), Main Commerce Building, Room B-099, and is accessible on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memo are identical in content.

Sales Below Cost in the Home Market

The Department disregarded home-market sales that failed the cost-of-production test for the following firms for these final results of reviews:

Country	Company
France	SNR Roulements and SKF.
Germany	FAG, Paul Mueller, and SKF.
Italy	FAG and SKF.
Japan	Koyo, NTN, NPBS, and NSK.
Singapore ...	NMB/Pelmec.

Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information by the submission due date or in the form and manner requested by the Department, significantly impedes a proceeding under the Act, or provides such information but the information cannot be verified, the Department shall, subject to sections 782(d) and (e) of the Act, use facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information that is necessary to the determination but not meeting all of the established requirements only if the information is submitted by the established deadline, the information can be verified, the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the established requirements with respect to the information, and the information can be used without undue difficulties.

Koyo's affiliates knew or had reason to know that their sales of ball bearings

were destined for the United States, but Koyo did not report these sales in its original questionnaire response. Moreover, in a supplemental questionnaire dated January 31, 2003, we asked Koyo to "explain whether any of your affiliated resellers * * * sold ball bearings to distributors but had knowledge at the time of sale that the bearings were destined to the United States," and, if so, to "report all such sales as U.S. sales and all expenses associated with such sales at this time." Koyo's response was that neither Koyo nor its affiliates knew or had reason to know at the time of sale that these ball bearings were destined to the United States, but the administrative record demonstrates otherwise. Therefore, we find that Koyo significantly impeded this proceeding by not reporting these sales and associated expenses as we requested. Because of Koyo's non-response to our inquiry, we do not have the data we need to calculate a margin on these U.S. sales. Therefore, we find it appropriate to rely on the facts available in order to establish a duty margin for the sales in question. Please see the Koyo Final Results Analysis Memorandum dated June 6, 2003 (Koyo Final Memo), for a complete description of the facts of this case. (Section 777(b)(1)(A) of the Act prohibits us from disclosing the proprietary business information demonstrating that the affiliated resellers knew or had reason to know at the time of sale that these ball bearings were destined to the United States in this notice.)

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available. Because Koyo and its affiliates knew or had reason to know that the ultimate destination of their sales of ball bearings was the United States but did not report these sales in the response to our supplemental questionnaire, we have determined that Koyo has not acted to the best of its ability in reporting these sales. Therefore, we find it appropriate to use an adverse inference in establishing the antidumping margin applicable for these sales. As adverse facts available, we calculated the margins for these sales using a rate of 73.55 percent, which is the margin we calculated for Koyo in the less-than-fair-value investigation (*see Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings,*

and Parts Thereof from Japan, 54 FR 20904-20905 (May 15, 1989)) and which we were able to corroborate. Because section 777(b)(1)(A) of the Act prohibits us from discussing the business proprietary information we used in our corroboration of this rate in this notice, please see the Koyo Final Memo for a complete description of our corroboration methodology.

We also find that SKF France did not provide information we requested at verification, thus significantly impeding this proceeding we requested in our January 24, 2003, verification outline, which we issued to SKF France ten days prior to the verification, that SKF France "have at hand all company records and worksheets used in responding to the questionnaire and supplemental requests." In it we also stated that we would "review the computer programs [SKF France] used to identify the sales for reporting and explain the underlying methodology used to compile the home-market sales quantity and value reported in [SKF France's] submissions."

In addition, the verification outline indicated that, "[i]f your client is not prepared to support or explain a response item at the appropriate time, then we will move on to another topic. If, due to time constraints, returning to that item is not possible, we may consider the item unverified. Furthermore, if information requested for verification is not supplied, or is unverified, pursuant to section 776(a) of the Tariff Act (the Act), we may use facts otherwise available in reaching the applicable determination."

At verification, however, SKF France was unprepared to segregate sales of Sarma (an affiliated company within the SKF France entity) product by market, class, or kind of merchandise. Since SKF France did not provide the necessary information during the verification in the form and manner we requested, we find it appropriate to use partial facts available under section 776(a)(2) of the Act.

We find it appropriate to apply adverse partial facts available also to SKF France because SKF France did not act to the best of its ability by not providing information we requested. We issued our verification outline to SKF France in a timely manner. SKF France selected Paris as the verification site and notified us only at the verification that the information that we requested was unavailable in Paris but was located at St. Vallier, France. *See Verification of SKF France's Ball Bearings and Parts Thereof from France and Sarma's Home-Market and Export Price Sales Data* dated March 7, 2003. SKF France