



EUROPEAN COMMISSION
Competition DG

***CASE COMP/39922 –
BEARINGS***

(Only the English text is authentic)

**CARTEL PROCEDURE
Council Regulation (EC) 1/2003**

Article 7 Regulation (EC) 1/2003

Date: 19.3.2014

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Brussels, 19.3.2014
C(2014) 1788 final

Public version

COMMISSION DECISION

of 19.3.2014

addressed to:

- JTEKT Corporation, JTEKT Europe Bearings B.V., Koyo France SA and Koyo Deutschland GmbH**
- NSK Ltd., NSK Europe Ltd. and NSK Deutschland GmbH**
- Nachi-Fujikoshi Corporation and Nachi Europe GmbH**
- AB SKF and SKF GmbH**
- INA-Holding Schaeffler GmbH & Co. KG, Schaeffler Holding GmbH & Co. KG, Schaeffler AG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH**
- NTN Corporation, NTN Wälzlager (Europa) GmbH and NTN-SNR Roulements SA**

**relating to proceedings under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement
(AT.39922 – Bearings)**

(Only the English language text is authentic)

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- **NSK Ltd., NSK Europe Ltd. and NSK Deutschland GmbH**
- **Nachi-Fujikoshi Corporation and Nachi Europe GmbH**
- **AB SKF and SKF GmbH**
- **INA-Holding Schaeffler GmbH & Co. KG, Schaeffler Holding GmbH & Co. KG, Schaeffler AG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH**
- **NTN Corporation, NTN Wälzlager (Europa) GmbH and NTN-SNR Roulements SA**

**relating to proceedings under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement
(AT.39922 – Bearings)**

(Only the English language text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union¹,

Having regard to the Agreement on the European Economic Area,

Having regard to Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty², and in particular Article 7 and Article 23(2) thereof,

Having regard to Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty³, as amended by Commission Regulation (EC) No 622/2008 of 30 June 2008 as regards the conduct of settlement procedures in cartel cases⁴, and in particular Article 10a thereof,

¹ OJ, C 115, 9/5/2008, p.47.

² OJ L 1, 4.1.2003, p.1. With effect from 1 December 2009, Articles 81 and 82 of the EC Treaty have become Articles 101 and 102, respectively, of the Treaty on the Functioning of the European Union ("TFEU"). The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 101 and 102 of the TFEU should be understood as references to Articles 81 and 82, respectively, of the EC Treaty where appropriate. The TFEU also introduced certain changes in terminology, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this Decision.

³ OJ L 123, 27.4.2004, p. 18.

⁴ OJ L 171, 1.7.2008, p. 3.

Having regard to the Commission decision of 22 January 2013 to initiate proceedings in this case,

Having given the undertakings concerned the opportunity to make known their views on the objections raised by the Commission pursuant to Article 27(1) of Regulation (EC) No 1/2003 and Article 11(1) of Regulation (EC) No 773/2004,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Having regard to the final report of the hearing officer in this case⁵,

WHEREAS:

1. INTRODUCTION

- (1) This Decision relates to a single and continuous infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement in the sector of automotive bearings. The infringement consisted of price coordination between bearings manufacturers vis-à-vis customers of automotive bearings. It covered the entire European Economic Area (EEA). The infringement lasted for all participants from 8 April 2004 until 25 July 2011, except for NFC, whose participation in the infringement started on 6 May 2004 and ended on 25 July 2011.
- (2) This Decision is addressed to the participants' following legal entities:
 - JTEKT Corporation, JTEKT Europe Bearings B.V., Koyo France SA and Koyo Deutschland GmbH ("JTEKT");
 - NSK Ltd., NSK Europe Ltd. and NSK Deutschland GmbH ("NSK");
 - Nachi-Fujikoshi Corporation and Nachi Europe GmbH ("NFC");
 - AB SKF and SKF GmbH ("SKF");
 - INA-Holding Schaeffler GmbH & Co. KG, Schaeffler Holding GmbH & Co. KG, Schaeffler AG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH ("Schaeffler"); and
 - NTN Corporation, NTN Wälzlager (Europa) GmbH and NTN-SNR Roulements SA ("NTN").

⁵ [...]

2. THE INDUSTRY SUBJECT TO THE PROCEEDINGS

2.1. The product

- (3) The products concerned by the anticompetitive conduct are bearings for automotive applications ("automotive bearings"), comprising bearings supplied to automotive original equipment manufacturers ("OEMs"), which are car⁶, truck⁷ and automotive component manufacturers (together also referred to as "automotive customers"). Bearings are machine parts with rolling elements used in rotating parts of such cars, trucks and automotive components.
- (4) Automotive bearings are usually customer-specific products. To select the suppliers, the automotive customers generally issue requests for quotations (RFQs). An RFQ can be issued for a new contract or platform but also in the context of an existing contract or platform when a customer requires a change in the design of the bearings, wishes to increase production or seeks to obtain a reduction in the price of bearings. The whole selection process may last several months to one year. Automotive customers often request yearly discounts from the bearings suppliers, usually referred to as annual price reduction (APR) requests, to reflect yearly production efficiencies over the course of the contract.
- (5) Steel is a major cost element common to all bearing manufacturers. It is a cost item that is generally addressed in the price negotiation process with the automotive customers. During certain periods of the infringement steel prices increased significantly.

2.2. The undertakings subject to the proceedings

2.2.1. JTEKT

- (6) The relevant legal entities are:
- (1) JTEKT Corporation with its registered office at No. 5-8, Minamisemba 3-chome, Chuo-ku, Osaka 542-8502, Japan; as well as the following subsidiaries:
 - (2) JTEKT Europe Bearings B.V. with its registered office at Markerkant 13-01, 1314 AL Almere, The Netherlands;
 - (3) Koyo France SA with its registered office at 6 Avenue du Marais BP 20189, 95105 Argenteuil Cedex, France; and
 - (4) Koyo Deutschland GmbH with its registered office at Bargkoppelweg 4, 22145 Hamburg, Germany.

⁶ For the purposes of this case, a car is defined as a power-driven vehicle, having at least four wheels, the maximum authorised weight of which is 3.5 tonnes and which may not be used for the transport of more than nine persons (vans/minivans are therefore still included). The present case does not cover automotive bearings sold to manufacturers of two-wheel motorcycles and racing vehicles.

⁷ For the purposes of this case, a truck is defined as a power-driven vehicle, the weight of which is above 3.5 tonnes and which is used for carrying goods and materials. The present case does not cover automotive bearings sold to manufacturers of passenger transport vehicles with a weight above 3.5 tons, in particular buses.

- (7) The undertaking's world-wide turnover for 2012 (business year 1 April 2012- 31 March 2013) was EUR 9 967 404 800. JTEKT has its headquarters in Japan and was established in January 2006 following the merger of Koyo Seiko Co. and Toyoda Machine Works. JTEKT manufactures and sells bearings and other products such as driveline components and machine tools.

2.2.2. *NSK*

- (8) The relevant legal entities are:
- (1) NSK Ltd. with its registered office at Nissei Building, 1-6-3 Ohsaki, Shinagawa-Ku, Tokyo, 141-8560, Japan; as well as the following subsidiaries:
 - (2) NSK Europe Ltd. with its registered office at Belmont Place, Belmont Road, Maidenhead, Berkshire, SL6 6TB, United Kingdom; and
 - (3) NSK Deutschland GmbH with its registered office at Harkortstrasse 15, 40880 Ratingen, Germany.
- (9) The undertaking's world-wide turnover in 2012 (business year 1 April 2012- 31 March 2013) was EUR 6 852 000 000. NSK has its headquarters in Japan, and is a manufacturer of automotive bearings, bearings for other applications, automotive products, precision machinery and mechatronics products.

2.2.3. *NFC*

- (10) The relevant legal entities are:
- (1) Nachi-Fujikoshi Corporation with its registered office at 1-9-2, Higashi-Shinbashi, Minato-ku, Tokyo 105-0021, Japan; as well as the following subsidiary:
 - (2) Nachi Europe GmbH with its registered office at Bischofsstraße 99, 47809 Krefeld, Germany.
- (11) The undertaking's world-wide turnover in 2013 (business year 1 December 2012-30 November 2013) was EUR 1 383 495 413. NFC has its headquarters in Japan, and is active in the manufacturing and selling of cutting tools, machine tools, robots, bearings, hydraulic equipment and special steels.

2.2.4. *SKF*

- (12) The relevant legal entities are:
- (1) AB SKF with its registered office at SE-41550 Gothenburg, Sweden; as well as the following subsidiary:
 - (2) SKF GmbH with its registered office at Gunnar-Wester-Straße 12, 97421 Schweinfurt, Germany.
- (13) The undertaking's world-wide turnover in 2013 (business year 1 January 2013- 31 December 2013) was EUR 7 351 000 000. AB SKF, a listed stock corporation under Swedish law, is the ultimate parent company of SKF. SKF manufactures and

markets ball and roller bearings, seals, mechatronics services and lubrication systems worldwide.

2.2.5. *Schaeffler*

(14) The relevant legal entities are:

- (1) INA-Holding Schaeffler GmbH & Co. KG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany; as well as the following subsidiaries:
- (2) Schaeffler Holding GmbH & Co. KG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany;
- (3) Schaeffler AG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany;
- (4) Schaeffler Technologies GmbH & Co. KG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany; and
- (5) FAG Kugelfischer GmbH with its registered office at Georg-Schäfer-Strasse 30, 97421 Schweinfurt, Germany.

(15) The undertaking's world-wide turnover in 2013 (business year 1 January 2013- 31 December 2013) was EUR 11 125 000 000. Schaeffler has its headquarters in Germany and is a producer of rolling bearings, as well as other parts (e.g. clutches and transmissions), for automotive and industrial applications. Schaeffler's three main brands are INA, FAG and LuK.

2.2.6. *NTN*

(16) The relevant legal entities are:

- (1) NTN Corporation with its registered office at 1-3-17, Kyomachibori, Nishi-ku Osaka-shi, Osaka, 550-0003, Japan; as well as the following subsidiaries:
- (2) NTN Wälzlager (Europa) GmbH with its registered office at Max-Planck-Strasse 23, 40699 Erkrath, Germany;
- (3) NTN-SNR Roulements SA with its registered office at 1 rue des Usines, 74000 Annecy, France.

(17) The undertaking's world-wide turnover in 2012 (business year 1 April 2012- 31 March 2013) was EUR 5 038 200 000⁸. NTN has its headquarters in Japan and is active in the production and sale of bearings, constant velocity joints and precision equipment.

⁸ The world-wide turnover of NTN-SNR Roulements SA in 2012 (business year 1 April 2012- 31 March 2013) was EUR 754 906 000.

3. PROCEDURE

- (18) On 25 July 2011 the Japanese Fair Trade Commission (JFTC) carried out inspections in Japan. On [...] JTEKT submitted an immunity application under the Commission Notice on Immunity from fines and reduction of fines in cartel cases ("the Leniency Notice")⁹. On 7 November 2011, the Commission granted JTEKT conditional immunity pursuant to point 8(a) of the Leniency Notice.
- (19) NSK and NFC applied for leniency on [...] and [...] respectively.
- (20) The Commission carried out inspections on 8-10 November 2011 at the premises of JTEKT, NSK, NFC, SKF, Schaeffler and NTN.
- (21) SKF and Schaeffler subsequently applied for leniency on [...] and [...]; respectively.
- (22) The Commission also sent several requests for information under Article 18 of Regulation (EC) No 1/2003¹⁰.
- (23) On 22 January 2013 the Commission initiated proceedings pursuant to Article 11(6) of Regulation (EC) No 1/2003 against the addressees of this Decision (also referred to as "parties" or individually "party") with a view to engaging in settlement discussions with the parties. After each party had confirmed its willingness to engage in settlement discussions, discussions started in March 2013.
- (24) Settlement meetings between each party and the Commission took place from March 2013 until early December 2013. During those meetings, the Commission informed the parties of the objections it envisaged raising against them and disclosed the main pieces of evidence relied upon by the Commission. The parties were given copies of the relevant pieces of evidence in the file as well as a list of all the documents in the file. Further, the parties were given access to the oral leniency statements at the Commission premises. Upon request, and in so far as it was justified for the parties to clarify their positions regarding a time period or any other aspect of the cartel, the parties were granted access to any additional document listed in the case file. The Commission also provided the parties with an estimation of the range of fines likely to be imposed by the Commission.
- (25) Each party expressed its view on the objections which the Commission envisaged raising against them. The parties' comments were carefully considered by the Commission and, where appropriate, taken into account. At the end of the settlement discussions, all parties considered that there was a sufficient common understanding as regards the objections and the estimation of the range of likely fines to continue the settlement process.
- (26) Between [...] and [...]¹¹, the parties submitted to the Commission their formal requests to settle pursuant to Article 10a (2) of Regulation (EC) No 773/2004¹² (the "settlement submissions"). The settlement submission of each party contained:

⁹ OJ C 298, 8.12.2006, p. 17.

¹⁰ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L 1 of 4.1.2003, p. 1.

- (1) an acknowledgement in clear and unequivocal terms of the party's liability for an infringement of Article 101 of the Treaty and Article 53(1) of the EEA Agreement summarily described as regards its object, the main facts, their legal qualification, including the party's role and the duration of its participation in the infringement in accordance with the results of the settlement discussions; and an acknowledgement in clear and unequivocal terms of the party's liability for the behaviour of its subsidiaries which were involved in the cartel (the "relevant subsidiaries");
 - (2) an indication of the maximum amount of the fine the party expects to be imposed by the Commission and which it would accept in the framework of a settlement procedure;
 - (3) the party's confirmation that it has been sufficiently informed of the objections the Commission envisages raising against it and that it has been given sufficient opportunity to make its views known to the Commission;
 - (4) the party's confirmation that it does not envisage requesting access to the file or requesting to be heard again in an oral hearing, unless the Commission does not reflect its settlement submission in the statement of objections and the decision;
 - (5) the party's agreement to receive the statement of objections and the final decision pursuant to Articles 7 and 23 of Regulation (EC) No 1/2003 in English.
- (27) On 21 January 2014 the Commission adopted a Statement of Objections addressed to JTEKT, NSK, NFC, SKF, Schaeffler¹³ and NTN. All the parties replied to the Statement of Objections by confirming that it reflected the contents of their settlement submissions and that they remained committed to following the settlement procedure.

4. DESCRIPTION OF THE EVENTS

4.1. Nature and scope of the activities

- (28) JTEKT, NSK, NFC, SKF, Schaeffler and NTN participated in a cartel the overall aim of which was to coordinate the pricing strategy vis-à-vis automotive customers. This included to varying degrees:
- (1) the coordination of the passing-on of steel price increases to automotive customers¹⁴;
 - (2) the coordination of responses to certain RFQs issued by automotive customers, in particular with respect to determining the undertakings that would quote, the

¹¹ On [...] Schaeffler extended its settlement submission to Schaeffler Technologies GmbH & Co. KG, which as of 1 January 2014 became the legal successor of Schaeffler Technologies AG & Co. KG. It took over the business with all assets and liabilities.

¹² Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty, OJ L 123, 27.4.2004, p. 18.

¹³ On 20 February 2014 the Commission adopted a Statement of Objections addressed to Schaeffler Technologies GmbH & Co. KG.

¹⁴ See for example [...].

price at which they would quote and the moment at which quotes would be submitted in response to such RFQs¹⁵;

- (3) the coordination of responses to certain APR requests from automotive customers¹⁶;
 - (4) the exchange of commercially sensitive information, in particular on the status of negotiations with customers on the passing-on of steel price increases, on prices quoted or to be quoted to specific customers in the context of a RFQ, on APR requests or on general or specific contract terms¹⁷.
- (29) There was in general a common understanding among participants not to undercut the other competitors' prices when prices increased as a result of an increase in the steel price so as to maintain existing shares of supply¹⁸. Occasionally, the participants discussed complaints about non-compliance with the anti-competitive arrangements¹⁹.
- (30) The evidence shows that the participants engaged in various anti-competitive practices through multilateral, trilateral and bilateral contacts.

4.1.1. *Multilateral meetings*

- (31) In multilateral meetings (also called by some participants "steel" or "club" meetings) the participants²⁰ coordinated the pass-on to automotive customers of increases in the steel price²¹. In that context, the participants exchanged information on:
- which customers had (not yet) accepted a price increase due to the steel price increase,
 - the amount of the requested or accepted increase,
 - the timing of the increase, as accepted by the OEMs, and
 - the status of the negotiations with their respective automotive customers, if still pending.
- (32) At these multilateral meetings, the participants also coordinated certain upcoming RFQs or APR requests from customers and/or the response to be given to a specific customer request relating to the re-negotiation of contract terms²².

4.1.2. *Bi- and trilateral discussions*

- (33) The participants engaged in bi- or trilateral discussions through meetings as well as emails and/or telephone contacts, which took place when cartel members had a

¹⁵ See for example [...].

¹⁶ See for example [...].

¹⁷ See for example [...].

¹⁸ See for example [...].

¹⁹ See for example [...].

²⁰ NFC did not attend these meetings but was aware of the content of some multilateral meetings (see for example [...]).

²¹ See for example [...].

²² See for example [...].

common interest in discussing specific customers and/or platforms either alongside the multilateral meetings²³ or on an ad-hoc basis²⁴. In such bi- or trilateral discussions, the participants coordinated, to varying degrees, inter alia quotations to be submitted in response to specific RFQs²⁵, supply shares to specific customers of common interest²⁶, percentages of discounts to be negotiated with certain customers²⁷, and the passing-on of steel price increases with respect to specific customers²⁸.

4.2. Geographic scope

- (34) The cartel covered the entire EEA. The anti-competitive contacts of the participants concerned supply to automotive customers' production facilities in the EEA, no matter where exactly these facilities were located within the EEA²⁹.

4.3. Temporal scope

- (35) The evidence demonstrates that a continuous set of anti-competitive contacts started on 8 April 2004³⁰. Hence the Commission takes this date as the starting date of the infringement for JTEKT, NSK, SKF, Schaeffler and NTN, which attended the multilateral meeting held on that date. NFC's involvement in the cartel is deemed to have started on 6 May 2004 as there is evidence that it was aware on that date of the 8 April 2004 meeting and of the conclusions reached at that meeting.
- (36) In the period from 26 January 2008³¹ until 20 July 2010³², there were no multilateral meetings between JTEKT, NSK, SKF, Schaeffler and NTN. However, bilateral/trilateral anti-competitive contacts among the participants, including NFC, continued (in the form of meetings, emails or telephone calls). These were significantly less frequent, concerned fewer customers and fewer instances of price coordination, compared to the period where multilateral meetings took place.
- (37) Based on the available evidence, it is considered that the cartel continued until 25 July 2011, the date of the inspections by the Japanese Fair Trade Commission. On the same day, or within a few days thereafter, several participants submitted leniency applications, or applications for a marker, to the Commission. In the absence of evidence of on-going collusion after 25 July 2011, it is considered that the infringement ended for all parties on that date.

5. LEGAL ASSESSMENT

- (38) The legal assessment set out in this section takes into account the evidence, the parties' clear and unequivocal acknowledgement of the facts as described in section 4

²³ See for example [...].

²⁴ See for example [...].

²⁵ See for example [...].

²⁶ See for example [...].

²⁷ See for example [...].

²⁸ See for example [...].

²⁹ See for example [...].

³⁰ See for example [...].

³¹ This is the day after the multilateral meeting of 25 January 2008 [...]: see for example [...].

³² This is the day before the multilateral meeting of 21 July 2010 [...]: see for example [...].

and the legal qualification thereof, and the parties' replies to the Statement of Objections.

5.1. The nature of the infringement of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement

5.1.1. Agreements and concerted practices

(a) Principles

(39) Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement prohibit anti-competitive agreements between undertakings, decisions by associations of undertakings and concerted practices.

(40) An *agreement* may be said to exist when the parties adhere to a common plan which limits or is likely to limit their individual commercial conduct by determining the lines of their mutual action or abstention from action in the market. Although Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement draw a distinction between the notion of "concerted practice" and that of *agreements between undertakings*, the object is to bring within the prohibition of those Articles a form of coordination between undertakings by which, without having reached the stage where an agreement properly so-called has been concluded, they knowingly substitute practical cooperation between them for the risks of competition. Thus, conduct may fall under Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement as a *concerted practice* even where the parties have not explicitly subscribed to a common plan defining their action in the market but knowingly adopt or adhere to collusive devices which facilitate the coordination of their commercial behaviour³³.

(41) In the case of a complex infringement of long duration, it is not necessary for the Commission to characterise the conduct as exclusively one or other of these forms of illegal behaviour. The concepts of *agreement* and *concerted practice* are fluid and may overlap. Indeed, it may not even be possible to make such a distinction, as an infringement may present simultaneously the characteristics of each form of prohibited conduct, while when considered in isolation some of its manifestations could accurately be described as one rather than the other. A cartel may therefore be an agreement and a concerted practice at the same time³⁴.

(b) Application to this case

(42) It follows from the facts described above in section 4, that the participating undertakings were involved in various actions of price coordination vis-à-vis automotive customers which can be classified as an agreement and/or concerted practice, whereby competitors knowingly substituted practical co-operation between them for the risks of competition. The participants may be considered to have used the information exchanged with competitors in determining their own conduct on the

³³ See Case T-7/89 *Hercules v Commission* [1991] ECR II-1711, at paragraph 256. See also Case 48/69, *Imperial Chemical Industries v Commission* [1972] ECR 619, at paragraph 64, and Joined Cases 40-48/73, etc. *Suiker Unie and Others v Commission* [1975] ECR 1663, at paragraphs 173-174.

³⁴ See Case T-7/89 *Hercules v Commission* [1991] ECR II-1711, paragraph 264.

market, all the more so because the concertation occurred on a regular basis and over a long period of time.

- (43) The conduct of the parties can be qualified as a complex infringement, consisting of various actions which are either classified as an agreement and/or concerted practice. The anti-competitive conduct covered by this Decision, which covered the EEA, therefore qualifies as an agreement and/or concerted practice between undertakings within the meaning of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement.

5.1.2. *Single and continuous infringement*

(a) Principles

- (44) A complex cartel may properly be viewed as a single and continuous infringement for the timeframe in which it existed. The concept of “single agreement” or “single infringement” presupposes a complex of practices adopted by various parties in pursuit of a single anticompetitive economic aim³⁵. The cartel may well be varied from time to time, or its mechanisms adapted or strengthened to take account of new developments. It would be artificial to split up such continuous conduct, characterised by a single purpose, by treating it as consisting of several separate infringements, when what was involved was a single infringement which progressively would manifest itself in both agreements and concerted practices³⁶.

- (45) The mere fact that each participant in a cartel may play the role which is appropriate to its own specific circumstances does not exclude its responsibility for the infringement as a whole, including acts committed by other participants but which share the same anticompetitive object or effect. An undertaking which takes part in the common unlawful enterprise by actions which contribute to the realisation of the shared objective is equally responsible, for the whole period of its adherence to the common scheme, for the acts of the other participants pursuant to the same infringement, where it is established that the undertaking in question was aware of the unlawful behaviour of the other participants or could reasonably have foreseen it and was prepared to take the risk³⁷.

(b) Application to this case

- (46) The conduct described in section 4 constitutes a single and continuous infringement of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement. The collusion between the parties was in pursuit of a single anti-competitive object and single economic aim, namely that of jointly influencing the price level of automotive bearings. To that end, they engaged in price coordination and regularly exchanged other sensitive commercial information relating to key price-setting parameters. There was in general a common understanding among participants not to undercut the other competitors' prices when prices increased as a result of an increase in the steel price so as to maintain existing shares of supply.

³⁵ Joined Cases T-25/95 etc *Cimenteries CBR and Others v Commission* [2000] ECR II-491, paragraph 369.

³⁶ Case T-6/89 *Enichem Anic v Commission* [1991] ECR II-1623, paragraph 204, upheld in Case 49/92 P *Commission v Anic Partecipazioni* [1999] ECR I-4125, paragraphs 82-92.

³⁷ Case 49/92 P *Commission v Anic Partecipazioni* [1999] ECR I-4125, paragraph 83.

- (47) The evidence shows that the anti-competitive arrangements were part of an on-going process and not isolated or sporadic events. The different anti-competitive contacts continued without interruption in pursuit of a single anti-competitive object, which remained the same throughout the period of the infringement, namely to resort to price coordination with competitors to keep the prices above the natural market trend. Further, there was a continuity of certain practices and patterns throughout the period and even in the absence of multilateral meetings.
- (48) The participants discussed automotive bearings supplied to car³⁸, truck³⁹ and automotive component manufacturers' production facilities in the EEA, both in the multilateral as well as in the bi-/trilateral meetings. All these contacts thus formed part of a single and continuous infringement.
- (49) Whereas NFC did not attend the multilateral meetings, it was involved on a regular basis in anti-competitive contacts on automotive bearings that had the same anti-competitive object and economic aim as the anti-competitive contacts of the other participants. As set out above, NFC was aware of the content of some multilateral meetings⁴⁰. For these reasons, NFC participated in the single and continuous infringement.
- (50) All these elements taken together demonstrate that the addressees of this Decision participated in a single and continuous infringement of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement.

5.2. Restriction of competition

(a) Principles

- (51) Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement expressly prohibit as incompatible with the internal market such agreements and concerted practices which have as their object or effect the restriction of competition by directly or indirectly fixing prices or any other trading conditions.
- (52) It is settled case-law that, for the purpose of the application of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement, there is no need to take into account the effects of an agreement when it has as its object the prevention, restriction or distortion of competition within the common market. Consequently, it is not necessary to show any anti-competitive effects where the anti-competitive object of the conduct in question is proved⁴¹. The same applies to concerted practices⁴².

(b) Application to this case

- (53) The participants' anti-competitive arrangements described in this Decision formed part of an overall scheme guiding the competitors' action in the market and pursuing an identical anti-competitive object and single anti-competitive aim. Within this overall

³⁸ See footnote 2 above.

³⁹ See footnote 3 above.

⁴⁰ See footnote 13 above.

⁴¹ See, for example, Case T-62/98 *Volkswagen v Commission* [2000] ECR II-2707, paragraph 178 and case-law cited therein.

⁴² See Case C-199/92 P *Hüls v Commission* [1999] ECR I-4287, paragraphs 158-166.

scheme, the participants engaged in price coordination with a view to recovering increasing costs of steel, to limiting discounts to be granted to automotive customers and to achieving prices above the competitive level in the context of RFQs.

- (54) Therefore, the object of the behaviour of the parties by its very nature was to restrict competition within the meaning of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement.

5.3. Effect upon trade between Member States and between EEA Contracting Parties

(a) Principles

- (55) Article 101 of the Treaty is aimed at agreements and concerted practices which might harm the attainment of a single market between the Member States, whether by partitioning national markets or by affecting the structure of competition within the internal market. Similarly, Article 53 of the EEA Agreement is directed at agreements that undermine the achievement of a homogeneous EEA.

- (56) The application of Article 101(1) of the Treaty and Article 53(1) of the EEA Agreement to a cartel is not, however, limited to that part of the cartel members' sales that actually involve the transfer of goods from one Member State to another. Nor is it necessary, in order for these provisions to apply, to show that the individual conduct of each participant, as opposed to the cartel as a whole, affected trade between Member States or between Contracting Parties to the EEA Agreement.

(b) Application to this case

- (57) During the relevant period, the participants sold large quantities of automotive bearings to customers' production sites in the EEA. On the basis of the sales data provided by the parties there is ample evidence of direct sales made in the EEA. In this case the cartel arrangements covered the whole EEA. The infringement by the parties was therefore capable by its very nature of having an appreciable effect upon trade between Member States and between the Contracting Parties to the EEA Agreement.

5.4. Non-applicability of Article 101(3) of the Treaty and Article 53(3) of the EEA Agreement

- (58) On the basis of the facts before the Commission, there are no indications that the conditions for exemption provided for in Article 101(3) of the Treaty and Article 53(3) of the EEA Agreement could be fulfilled with regard to this cartel.

6. DURATION OF THE INFRINGEMENT

- (59) As set out in section 4.3, the infringement started on 8 April 2004⁴³ for JTEKT, NSK, SKF, Schaeffler and NTN, and on 6 May 2004 for NFC. The infringement ended for all parties on 25 July 2011.

⁴³ See for example [...].

7. LIABILITY

7.1. Principles

- (60) Where several legal entities may be held liable for the participation in an infringement of one and the same undertaking, they must be regarded as jointly and severally liable for that infringement.⁴⁴ In the specific case where a parent company has a 100% shareholding in a subsidiary which has infringed Union competition rules, the parent company can exercise decisive influence over the conduct of the subsidiary and there is a rebuttable presumption that the parent company does in fact exercise decisive influence over the conduct of its subsidiary⁴⁵.
- (61) Having regard to the body of evidence and the facts described in section 4, the parties' clear and unequivocal acknowledgements of the facts and the legal qualification thereof contained in their settlement submissions, as well as their replies to the Statement of Objections, this Decision is addressed to the legal entities listed below in sections 7.2 to 7.7.

7.2. JTEKT

- (62) JTEKT Corporation and its subsidiaries JTEKT Europe Bearings B.V., Koyo France SA and Koyo Deutschland GmbH are held jointly and severally liable for the single and continuous infringement committed by JTEKT. All these legal entities clearly and unequivocally acknowledged their liability for their direct involvement in the infringement. In addition, JTEKT Corporation clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiaries JTEKT Europe Bearings B.V.⁴⁶, Koyo France SA and Koyo Deutschland GmbH.

7.3. NSK

- (63) NSK Ltd. and its subsidiaries NSK Europe Ltd. and NSK Deutschland GmbH are held jointly and severally liable for the single and continuous infringement committed by NSK. All these legal entities clearly and unequivocally acknowledged their liability for their direct involvement in the infringement. In addition, NSK Ltd. clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiaries NSK Europe Ltd. and NSK Deutschland GmbH.

7.4. NFC

- (64) Nachi-Fujikoshi Corporation and its subsidiary Nachi Europe GmbH⁴⁷ are held jointly and severally liable for the single and continuous infringement committed by NFC. Both legal entities clearly and unequivocally acknowledged their liability for their direct involvement in the infringement. In addition, Nachi-Fujikoshi Corporation

⁴⁴ See, to that effect, Joined Cases 6/73 and 7/73 *ICI and Commercial Solvents v Commission* [1974] ECR 223, paragraph 41.

⁴⁵ See Case C-97/08 P *Akzo Nobel and others v Commission* [2009] ECR I-08237, paragraph 60.

⁴⁶ Until 2008 named Europa-Koyo B.V.

⁴⁷ Nachi Europe GmbH is the legal successor of Nachi (UK) Ltd: In early 2005, Nachi-Fujikoshi Corporation transferred 100% of the shares in Nachi (UK) Ltd to Nachi Europe GmbH. Nachi (UK) Ltd was then absorbed by Nachi Europe GmbH (NFC, [...]). Nachi (UK) Ltd was directly involved in the infringement since the beginning, i.e. since 6 May 2004.

clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiary Nachi Europe GmbH.

7.5. SKF

- (65) AB SKF and its subsidiary SKF GmbH are held jointly and severally liable for the single and continuous infringement committed by SKF. SKF GmbH clearly and unequivocally acknowledged liability for its direct involvement in the infringement. In addition, AB SKF clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiary SKF GmbH.

7.6. Schaeffler

- (66) INA-Holding Schaeffler GmbH & Co. KG and its subsidiaries Schaeffler Holding GmbH & Co. KG, Schaeffler AG, Schaeffler Technologies GmbH & Co. KG⁴⁸ and FAG Kugelfischer GmbH are held jointly and severally liable for the single and continuous infringement committed by Schaeffler. Schaeffler Holding GmbH & Co. KG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH clearly and unequivocally acknowledged liability for their direct involvement in the infringement. Schaeffler AG clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiaries Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH. In addition, INA-Holding Schaeffler GmbH & Co. clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiaries Schaeffler Holding GmbH & Co. KG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH⁴⁹.

7.7. NTN

- (67) NTN Corporation and its subsidiaries NTN Wälzlager (Europa) GmbH and NTN-SNR Roulements SA are held jointly and severally liable for the single and continuous infringement committed by NTN; NTN-SNR Roulements SA is held solely liable for its own direct involvement in the period from 8 April 2004 to 6 April 2008. NTN Wälzlager (Europa) GmbH clearly and unequivocally acknowledged liability for its direct involvement in the infringement. NTN-SNR Roulements SA⁵⁰ clearly and unequivocally acknowledged its liability for its own direct involvement in the infringement from 8 April 2004 to 25 July 2011 and, as regards the period from 8 April 2004 until 21 July 2010, also as successor of NTN France SA⁵¹. NTN Corporation clearly and unequivocally acknowledged its liability for the conduct of its wholly owned subsidiary NTN Wälzlager (Europa) GmbH and its former wholly owned subsidiary NTN France SA (for the latter with respect to the period from 8 April 2004 to 21 July 2010). NTN Corporation clearly and unequivocally acknowledged its liability for the conduct of its subsidiary NTN-SNR Roulements SA (formerly SNR Roulements SA) for the period between 7 April 2008 and 25 July

⁴⁸ Schaeffler Technologies GmbH & Co. KG is the legal successor of Schaeffler Technologies AG & Co. KG.

⁴⁹ [...].

⁵⁰ In July 2010 SNR Roulements SA changed its name to NTN-SNR Roulements SA (NTN [...]).

⁵¹ NTN France SA was directly involved in the infringement. On 22 July 2010, NTN Corporation contributed in kind all NTN France SA shares to NTN-SNR Roulements SA following which NTN France SA merged with NTN-SNR Roulements SA and NTN France SA ceased to exist (NTN, [...]).

2011, as NTN Corporation acquired decisive influence over SNR Roulements SA on 7 April 2008⁵².

8. REMEDIES

8.1. Article 7 of Regulation (EC) No 1/2003

(68) Where the Commission finds that there is an infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement, it may by decision require the undertakings concerned to bring such infringement to an end in accordance with Article 7 of Regulation (EC) No 1/2003.

(69) Given the secrecy in which the cartel arrangements were carried out, it is not possible to declare with absolute certainty that the infringement has ceased. It is therefore necessary to require the addressees of this Decision to bring the infringement to an end -if they have not already done so- and henceforth to refrain from any agreement and/or concerted practice having the same or a similar object or effect.

8.2. Article 23(2) of Regulation (EC) No 1/2003: Fines

(70) Under Article 23(2) of Regulation (EC) No 1/2003, the Commission may by decision impose fines on undertakings and associations of undertakings where, either intentionally or negligently, they infringe Article 101 of the Treaty and Article 53 of the EEA Agreement⁵³. For each undertaking participating in the infringement, the fine must not exceed 10% of its total turnover in the preceding business year.

(71) The Commission considers that, based on the facts described in this Decision, the infringement has been committed intentionally. The infringement consisted of price coordination vis-à-vis automotive customers. With respect to such type of infringement, the parties cannot claim that they did not act intentionally⁵⁴.

(72) The Commission therefore imposes fines on the undertakings to which this Decision is addressed.

(73) Pursuant to Article 23(3) of Regulation (EC) No 1/2003, the Commission must, in fixing the amount of the fine, have regard to all the relevant circumstances, and in particular the gravity and duration of the infringement, which are the two criteria explicitly referred to in that Regulation. In doing so, the Commission sets the fines at a level sufficient to ensure deterrence. Moreover, the role played by each undertaking party to the infringement is assessed on an individual basis. The fine imposed must reflect any aggravating and attenuating circumstances pertaining to each undertaking.

⁵² [...].

⁵³ Under Article 5 of Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements of implementing the Agreement on the European Economic Area (OJ L 305, 30.11.1994, p. 1) “the Community rules giving effect to the principles set out in Articles 85 and 86 of the EC Treaty [now Articles 101 and 102 TFEU] [...] shall apply *mutatis mutandis*”.

⁵⁴ See e.g. Case C-219/95 P *Ferriere Nord v Commission* [1997] ECR I-4411, paragraph 50; Case T-11/05 *Wieland-Werke v Commission* [2010] ECR II-86*, paragraph 140.

- (74) In setting the fines to be imposed, the Commission refers to the principles laid down in its Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003⁵⁵ (the “Guidelines on fines”). Finally, the Commission applies, as appropriate, the provisions of the Leniency Notice and the Commission Notice on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Regulation (EC) No1/2003 in cartel cases (“the Settlement Notice”)⁵⁶.

8.3. Basic amount of the fine

- (75) In accordance with the Guidelines on fines, a basic amount is to be determined for each undertaking's fine, which results from the addition of a variable amount and an additional amount. The variable amount results from a percentage of up to 30% of the value of sales of goods or services to which the infringement relates in a given year (normally, the last full business year of the infringement) multiplied with the number of years of the undertaking's participation in the infringement. The additional amount (“entry fee”) is calculated as a percentage between 15% and 25% of the value of sales, irrespective of the duration of the infringement⁵⁷. The resulting basic amount can then be increased or reduced for each company if there are either aggravating or mitigating circumstances⁵⁸.

8.3.1. Calculation of the value of sales

- (76) The basic amount of the fine to be imposed on the undertakings concerned is to be set by reference to the value of the undertakings' sales of goods or services to which the infringement directly or indirectly related in the relevant geographic area within the EEA⁵⁹. In this case the relevant value of sales is the undertakings' sales of automotive bearings (as defined in section 2 above) in the EEA. To reflect the limited scope of the contacts in the sub-segment of the sales of bearings to automotive component manufacturers, the Commission uses as the value of sales 100% of the sales of bearings to car and truck manufacturers and 50% of the sales of bearings to automotive component manufacturers.
- (77) The Commission normally takes the sales made by the undertakings during the last full business year of their participation in the infringement⁶⁰. If the last year is not sufficiently representative, the Commission may take into account another year and/or other years for the determination of the value of sales. Because of the cyclical nature of the parties' sales during the cartel period the basic amount is determined according to the average annual sales of automotive bearings during the full six years of the infringement, i.e. 2005-2010.
- (78) Each party has confirmed the relevant value of sales for the calculation of the fines in their settlement submission.

⁵⁵ OJ C 210, 1.09.2006, p. 2.

⁵⁶ OJ C 167, 2.07.2008, p. 1-6.

⁵⁷ Points 19-26 of the Guidelines on fines.

⁵⁸ Points 27-29 of the Guidelines on fines.

⁵⁹ Point 12 of the Guidelines on fines.

⁶⁰ Point 13 of the Guidelines on fines.

- (79) When calculating the fines, account should be taken of the period of limited cartel activity from 26 January 2008 until 20 July 2010 (see above recital (36)). In view of the limited activity and lower intensity of the cartel, but also in view of the fact that there were still some on-going collusive contacts during that period, the Commission counts only 10% of the value of sales for that period.
- (80) Accordingly, the value of sales for each party is as set out in Table 1:

Table 1. Value of Sales

Undertaking	Value of Sales (EUR) [RANGES]
JTEKT	50 000 000-75 000 000
NSK	75 000 000 – 100 000 000
NFC	up to 10 000 000
SKF	300 000 000 – 400 000 000
Schaeffler	320 000 000 - 420 000 000
NTN for the period up to 6 April 2008 - without NTN-SNR Roulements SA - NTN-SNR Roulements SA alone	80 000 000 – 150 000 000 150 000 000 – 200 000 000
NTN for the period from 7 April 2008	80 000 000 – 150 000 000

8.3.2. *Determination of the variable amount*

(81) As set out in recital 75, the basic amount of the fines results from the addition of a variable amount and an additional amount. The variable amount results from a percentage of up to 30 % of the undertaking's relevant value of sales, depending on the degree of gravity of the infringement and multiplied by the number of years of the undertaking's participation in the infringement.

8.3.2.1. Gravity

(82) The gravity of the infringement determines the percentage of the value of sales taken into account in setting the fine. In assessing the gravity of the infringement, the Commission may have regard to a number of factors, such as the nature of the infringement, the combined market share of all the undertakings concerned, the geographic scope of the infringement and/or whether or not the infringement has been implemented⁶¹.

(83) In this case, the Commission takes into account that the infringement is, by its very nature, among the most harmful restrictions of competition. Therefore, the proportion of the value of sales taken into account for the infringement is set at the higher end of the scale of the value of sales.

⁶¹ Points 21 and 22 of the Guidelines on fines.

- (84) The Commission also takes into account that the infringement covered the entire EEA.
- (85) Given the specific circumstances of this case, and taking into account the nature and the geographic scope of the infringement, the proportion of the value of sales to be taken into account is 16 %.

8.3.2.2. Duration

- (86) The amount determined on the basis of the value of sales is multiplied by the number of years of participation in the infringement in order to take fully into account the duration of the individual participation of each undertaking in the infringement.⁶²
- (87) The time periods taken into account for the purposes of calculating the fines and the increase of the fines corresponding to those periods ("multiplier") are set out in Table 2.

Table 2. Duration

Undertaking	Period of participation	Multiplier
JTEKT	8 April 2004 – 25 July 2011	7.25
NSK	8 April 2004 – 25 July 2011	7.25
NFC	6 May 2004 – 25 July 2011	7.16
SKF	8 April 2004 – 25 July 2011	7.25
Schaeffler	8 April 2004 – 25 July 2011	7.25
NTN for the period up to 6 April 2008:		
- without NTN-SNR Roulements SA	8 April 2004 – 6 April 2008	4.00
- NTN-SNR Roulements SA alone	8 April 2004 – 6 April 2008	4.00
NTN for the period from 7 April 2008	7 April 2008 – 25 July 2011	3.25

8.3.3. Determination of the additional amount

- (88) As set out in recital 75, irrespective of the duration of an undertaking's participation in the infringement, the basic amount includes a sum of between 15% and 25% of the value of sales to deter undertakings from even entering into such illegal practices,

⁶² Point 24 of the Guidelines on fines.

which is determined on the basis of the criteria listed above with respect to the variable amount.⁶³

- (89) Taking into account the factors indicated in section 8.3.2.1 relating to the nature and the geographic scope of the infringement, the percentage to be applied for the purposes of calculating this additional amount is 16%.
- (90) As regards NTN, the additional amount is applied to calculate the fine for NTN-SNR Roulements SA's sole liability for the period from 8 April 2004 until 6 April 2008 and to calculate the fine for NTN Corporation's joint and several liability with NTN Wälzlager GmbH for the period from 8 April 2004 until 6 April 2008.

8.3.4. Conclusion

- (91) The application of the criteria set out in recitals (75) - (90) leads to the basic amounts of the fines for each party as set out in Table 3.

Table 3. Basic amounts of the fine

Undertaking	Basic amount (€) [RANGES]
JTEKT	80 000 000 – 130 000 000
NSK	110 000 000 – 160 000 000
NFC	up to 15 000 000
SKF	420 000 000 – 520 000 000
Schaeffler	450 000 000 – 550 000 000
NTN for the period up to 6 April 2008:	
- without NTN-SNR Roulements SA	75 000 000 – 100 000 000
- NTN-SNR Roulements SA alone	100 000 000 – 150 000 000
NTN for the period from 7 April 2008	50 000 000 – 75 000 000

8.4. Adjustments to the basic amount of the fine

8.4.1. Aggravating circumstances

- (92) The basic amount of the fine may be increased where there are aggravating circumstances. Point 28 of the Guidelines on fines sets out a non-exhaustive list of such circumstances.

⁶³ Point 25 of the Guidelines on fines.

(93) The Commission does not apply in this case any aggravating circumstances.

8.4.2. *Mitigating circumstances*

(94) The basic amount of the fine may be reduced where there are mitigating circumstances. Point 29 of the Guidelines sets out a non-exhaustive list of such circumstances.

(95) NFC participated in the bi-/and trilateral discussions to a much lesser extent than the other parties, and it was absent from the multilateral meetings but was aware of the content of some of them. It therefore had to rely on the information it received from the other parties about these meetings, could not itself take a position in these meetings and was not actively involved in the price coordination that was discussed and/or agreed during these meetings. Therefore, NFC is granted a reduction of 15% for its limited participation in the infringement.

8.4.3. *Specific increase for deterrence*

(96) The Commission pays particular attention to the need to ensure that fines have a sufficiently deterrent effect. To that end, it may increase the fines to be imposed on undertakings which have a particularly large turnover beyond the sales of goods or services to which the infringement relates⁶⁴.

(97) In this particular case, the Commission does not apply any increase for deterrence.

8.5. Application of the 10 % turnover limit

(98) Article 23(2) of Regulation (EC) No 1/2003 provides that the fine imposed on each undertaking must not exceed 10% of its total turnover in the preceding business year.

8.6. Specific limitation of the fine

(99) The 10 % turnover limit laid down in Article 23(2) of Regulation No 1/2003 is calculated on the basis of the total turnover of all the entities constituting an 'undertaking' in accordance with the case law of the courts of the Union.⁶⁵ This applies equally to legal entities that have become part of the undertaking during the course of the infringement, such as NTN-SNR Roulements SA (formerly SNR Roulements SA), over which NTN Corporation acquired decisive influence on 7 April 2008. The fine imposed on NTN-SNR Roulements SA is therefore subject to the same limit as the fine of the other entities belonging to the NTN undertaking, that is 10 % of the worldwide turnover of that undertaking.

(100) However, in this particular case the Commission exercises its margin of appreciation, as reflected in point 37 of the Guidelines on fines, by reducing the part of the fine for which NTN-SNR Roulements SA is solely liable to a level that does not exceed 10 %

⁶⁴ Point 30 of the Guidelines on fines.

⁶⁵ See e.g. Joined Cases T-204/08 and T-212/08 *Team Relocations and Others v Commission* [2011] ECR II-3569, paragraphs 154; upheld on appeal by the judgment of 11 July 2013 in Case C-444/11 P *Team Relocations and Others v Commission*, nyr, paragraphs 170-179; Case T-26/06 *Trioplast Wittenheim v Commission* [2010] ECR II-188*, paragraph 114.

of that entity's own turnover in the business year preceding the adoption of the Decision.

- (101) Therefore, the adjusted basic amount corresponding to the period for which NTN-SNR Roulements SA is solely liable, will be reduced to EUR 75 490 600, that is to say 10% of NTN-SNR Roulements SA's total turnover in the business year from 1 April 2012 to 31 March 2013.

8.7. Application of the Leniency Notice

8.7.1. Immunity from fines

- (102) JTEKT submitted an immunity application on [...] under the Leniency Notice and was granted conditional immunity from fines on 7 November 2011. JTEKT's cooperation fulfilled the requirements under the Leniency Notice. JTEKT is therefore granted immunity from fines in this case.

8.7.2. Reduction of fines

- (103) NSK, NFC, SKF and Schaeffler applied under the Leniency Notice for a reduction of any fine that would be imposed on them on [...], [...] and [...] respectively.
- (104) NSK was the first undertaking to meet the requirements of points 24 and 25 of the Leniency Notice. NSK has been notified of the decision of 30 January 2013 by which the Commission announced its intention to grant it a reduction of the fine within the range of 30-50%. NSK provided evidence confirming meetings already reported by JTEKT, although some of that information remained rather vague, as well as new information on a number of bilateral and trilateral contacts. Consequently, NSK is granted a 40% reduction of the fine that would otherwise have been imposed in this Decision.
- (105) NFC was the second undertaking to meet the requirements of points 24 and 25 of the Leniency Notice. NFC has been notified of the decision of 30 January 2013 by which the Commission announced its intention to grant a reduction of the fine within the range of 20-30%. NFC provided detailed new information evidencing its own participation in the single and continuous infringement but also concerning the overall framework of the cartel. Consequently, NFC is granted the maximum reduction of 30% of the fine that would otherwise have been imposed in this Decision.
- (106) SKF was the third undertaking to meet the requirements of points 24 and 25 of the Leniency Notice. SKF has been notified of the decision of 30 January 2013 by which the Commission announced its intention to grant a reduction of the fine within the range of up to 20%. SKF applied for leniency immediately after the launching of the inspections, i.e. [...] after the Commission's inspection started. SKF gave additional information that enabled the Commission to conclusively interpret several documents in an incriminating manner. SKF submitted new evidence enabling the Commission to better demonstrate the single and continuous nature of the infringement and significantly strengthening the case against other cartel members. Consequently, SKF is granted the maximum reduction of 20% of the fine that would otherwise have been imposed in this Decision.

(107) Schaeffler was the fourth undertaking to meet the requirements of points 24 and 25 of the Leniency Notice. Schaeffler has been notified of the decision of 30 January 2013 by which the Commission announced its intention to grant a reduction of the fine within the range of up to 20%. Schaeffler filed its leniency application [...] after the Commission's inspection had finished, i.e. shortly after it had learned about the Commission's investigation. Schaeffler reported on a number of new bilateral and trilateral contacts (concerning also the follow up of multilateral meetings) that enabled the Commission to strengthen its findings of a single and continuous infringement concerning automotive bearings, of [...], of the implication of other parties in this single and continuous infringement and of cartel contacts relating to [...]. Consequently, Schaeffler is granted the maximum reduction of 20% of the fine that would otherwise have been imposed in this Decision.

8.8. Application of the Settlement Notice

(108) In accordance with point 32 of the Settlement Notice, the reward for settlement results in a reduction of 10% of the amount of the fine to be imposed on a party after the 10% turnover limit has been applied having regard to the Guidelines on fines. Pursuant to point 33 of the Settlement Notice, when settled cases involve leniency applicants, that reduction will be added to their leniency reward.

(109) Consequently, the amount of the fine to be imposed on JTEKT, NSK, NFC, SKF, Schaeffler and NTN is further reduced by 10%.

8.9. Conclusion: final amount of individual fines to be imposed in this Decision

(110) The fines to be imposed pursuant to Article 23(2) of Regulation (EC) No 1/2003 are set out in Table 4.

Table 4. Fines

Undertaking	Fines (in EUR)
JTEKT	0
NSK	62 406 000
NFC	3 956 000
SKF	315 109 000
Schaeffler	370 481 000
NTN for the period up to 6 April 2008:	
- without NTN-SNR Roulements SA	80 962 000
- NTN-SNR Roulements SA alone	67 941 000
NTN for the period from 7 April 2008	52 451 000

HAS ADOPTED THIS DECISION:

Article 1

The following undertakings infringed Article 101 of the Treaty and Article 53 of the EEA Agreement by participating, during the periods indicated, in anticompetitive practices covering the entire EEA with a view of restricting price competition in the sector of bearings sold to car, truck and automotive component manufacturers:

- (a) JTEKT Corporation, JTEKT Europe Bearings B.V., Koyo France SA and Koyo Deutschland GmbH, from 8 April 2004 until 25 July 2011;
- (b) NSK Ltd., NSK Europe Ltd. and NSK Deutschland GmbH, from 8 April 2004 until 25 July 2011;
- (c) Nachi-Fujikoshi Corporation and Nachi Europe GmbH, from 6 May 2004 until 25 July 2011;
- (d) AB SKF and SKF GmbH, from 8 April 2004 until 25 July 2011;
- (e) INA-Holding Schaeffler GmbH & Co. KG, Schaeffler Holding GmbH & Co. KG, Schaeffler AG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH, from 8 April 2004 until 25 July 2011;
- (f) NTN Corporation, NTN Wälzlager (Europa) GmbH and NTN-SNR Roulements SA, from 8 April 2004 until 25 July 2011.

Article 2

For the infringement referred to in Article 1, the following fines are imposed:

- (a) JTEKT Corporation, JTEKT Europe Bearings B.V., Koyo France SA and Koyo Deutschland GmbH, jointly and severally liable: EUR 0;
- (b) NSK Ltd., NSK Europe Ltd. and NSK Deutschland GmbH, jointly and severally liable: EUR 62 406 000;
- (c) Nachi-Fujikoshi Corporation and Nachi Europe GmbH jointly and severally liable: EUR 3 956 000;
- (d) AB SKF and SKF GmbH jointly and severally liable: EUR 315 109 000;
- (e) INA-Holding Schaeffler GmbH & Co. KG, Schaeffler Holding GmbH & Co. KG, Schaeffler AG, Schaeffler Technologies GmbH & Co. KG and FAG Kugelfischer GmbH, jointly and severally liable: EUR 370 481 000;
- (f) NTN Corporation, NTN Wälzlager (Europa) GmbH and NTN-SNR-Roulements SA jointly and severally liable: EUR 52 451 000;
- (g) NTN Corporation and NTN Wälzlager (Europa) GmbH jointly and severally liable: EUR 80 962 000;

(h) NTN-SNR Roulements SA solely liable: EUR 67 941 000.

The fines shall be paid in euros within three months of the date of the notification of this Decision to the following account held in the name of the European Commission:

Banque et Caisse d'Épargne de l'État
1-2, Place de Metz
L1930 Luxembourg

IBAN: LU02 0019 3155 9887 1000, BIC: BCEELULL
Ref.: European Commission – BUFI / AT.39922

After the expiry of that period, interest will automatically be payable at the interest rate applied by the European Central Bank to its main refinancing operations on the first day of the month in which this Decision is adopted, plus 3.5 percentage points.

Where an undertaking referred to in Article 1 lodges an appeal, that undertaking must cover the fine by the due date by either providing an acceptable bank guarantee or making a provisional payment of the fine in accordance with Article 90 of Commission Delegated Regulation (EU) No 1268/2012⁶⁶.

Article 3

The undertakings listed in Article 1 shall immediately bring to an end the infringements referred to in that Article insofar as they have not already done so.

They shall refrain from repeating any act or conduct described in Article 1, and from any act or conduct having the same or similar object or effect.

Article 4

This Decision is addressed to:

- (a) JTEKT Corporation with its registered office at No. 5-8, Minamisemba 3-chome, Chuo-ku, Osaka 542-8502, Japan;
- (b) JTEKT Europe Bearings B.V. with its registered office at Markerkant 13-01, 1314 AL Almere, The Netherlands;
- (c) Koyo France SA with its registered office at 6 Avenue du Marais BP 20189, 95105 Argenteuil Cedex, France;
- (d) Koyo Deutschland GmbH with its registered office at Bargkoppelweg 4, 22145 Hamburg, Germany;

⁶⁶ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L362, 31.1.2.2012, p.1).

- (e) NSK Ltd. with its registered office at Nissei Building, 1-6-3 Ohsaki, Shinagawa-Ku, Tokyo, 141-8560, Japan;
- (f) NSK Europe Ltd. with its registered office at Belmont Place, Belmont Road, Maidenhead, Berkshire, SL6 6TB, United Kingdom;
- (g) NSK Deutschland GmbH with its registered office at Harkortstrasse 15, 40880 Ratingen, Germany;
- (h) Nachi-Fujikoshi Corporation with its registered office at 1-9-2, Higashi-Shinbashi, Minato-ku, Tokyo 105-0021, Japan;
- (i) Nachi Europe GmbH with its registered office at Bischofsstraße 99, 47809 Krefeld, Germany;
- (j) AB SKF with its registered office at SE-41550 Gothenburg, Sweden;
- (k) SKF GmbH with its registered office at Gunnar-Wester-Straße 12, 97421 Schweinfurt, Germany;
- (l) INA-Holding Schaeffler GmbH & Co. KG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany;
- (m) Schaeffler Holding GmbH & Co. KG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany;
- (n) Schaeffler AG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany;
- (o) Schaeffler Technologies GmbH & Co. KG with its registered office at Industriestrasse 1-3, 91074 Herzogenaurach, Germany;
- (p) FAG Kugelfischer GmbH with its registered office at Georg-Schäfer-Strasse 30, 97421 Schweinfurt, Germany;
- (q) NTN Corporation with its registered office at 1-3-17, Kyomachibori, Nishi-ku Osaka-shi, Osaka 550-0003, Japan;
- (r) NTN Wälzlager (Europa) GmbH with its registered office at Max-Planck-Strasse 23, 40699 Erkrath, Germany;
- (s) NTN-SNR Roulements SA with its registered office at 1 rue des Usines, 74000 Annecy, France.

This Decision shall be enforceable pursuant to Article 299 of the Treaty and Article 110 of the EEA Agreement.

Done at Brussels, 19.3.2014

For the Commission
Joaquín ALMUNIA
Vice-President