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International Trade Administration
Washington, D.C. 20230

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DATE: August 16, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: for Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results in the Antidumping Duty New Shipper Review of Multilayered Wood Flooring from the People's Republic of China

SUMMARY

The Department of Commerce (the "Department") analyzed the case brief submitted by the Coalition for American Hardwood Parity ("CAHP")[1] and rebuttal brief submitted by Power Dekor Group Co., Ltd. ("Power Dekor") in the antidumping duty new shipper review of multilayered wood flooring ("MLWF") from the People's Republic of China ("PRC"). As a result of this analysis, we made changes to the *Preliminary Results*.[2] We recommend that you approve the positions described in the "Discussion of the Issue" section of this memorandum.

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[1] The member-companies of CAHP are Anderson Hardwood Floors, LLC; Award Hardwood Floors; From the Forest; Howell Hardwood Flooring; Mannington Mills, Inc.; Nydree Flooring; and Shaw Industries Group, Inc.
[2] *See Multilayered Wood Flooring From the People's Republic of China; Preliminary Results of Antidumping Duty New Shipper Review; 2011-2012,* 78 FR 32367 (May 30, 2013) ("*Preliminary Results*"). Also adopted as part of the *Preliminary Results* was the Memorandum to Paul Piquado entitled "Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Multilayered Wood Flooring from the People's Republic of China," dated May 23, 2013 ("Preliminary Decision Memorandum").

BACKGROUND

The Department published its *Preliminary Results* on May 30, 2013. On July 1, 2013, CAHP submitted its case brief.[3] On July 8, 2013, Power Dekor submitted its rebuttal brief.[4]

SCOPE OF THE ORDER

The product covered by the order is MLWF, which is composed of an assembly of two or more layers or plies of wood veneer(s)[5] in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. MLWF is often referred to by other terms, *e.g.*, "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All MLWF is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies, width, and length); wood species used for the face, back and inner veneers; core composition; and face grade. MLWF included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All MLWF is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all MLWF is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All MLWF is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of MLWF may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard ("HDF"), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

MLWF products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All MLWF products are included within this definition regardless of the actual or nominal dimensions or form of the product.

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[3] *See* Letter from CAHP entitled "Multilayered Wood Flooring from China: New Shipper Review," dated July 1, 2013.

[4] *See* Letter from Power Dekor Group entitled "New Shipper Review for Multilayered Wood Flooring from the People's Republic of China: Response to CAHP's Comments," dated July 8, 2013.

[5] A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

DISCUSSION OF THE ISSUE

Comment: Selection of Surrogate Financial Statements

CAHP's Arguments

- Winlex Marketing Corporation's ("Winlex's") fiscal year ("FY") 2011 financial statements should not be used because the balance sheet lists a zero value for property, plant, and equipment and depreciation. Additionally, the FY 2011 financial statements are incomplete with respect to its physical assets since the supporting schedule for Winlex's property, plant, and equipment was not included.
- Winlex's and Davao Panels Enterprises, Inc. ("Davao's") FY 2011 financial statements should not be used because both Winlex and Davao received interest-free advances from their respective shareholders, and even if there was a Philippine market-based rate on the record with which to impute the financial expenses, the Department does not adjust surrogate financial statements.
- The Department should not use Winlex's and Davao's FY 2011 financial statements to calculate financial ratios because record evidence does not establish that these companies are producers of comparable merchandise.

Power Dekor's Rebuttal Arguments

- Winlex's FY 2011 financial statements are complete. Additionally, this is not a sufficient reason to disregard Winlex's FY 2011 financial statements because the information alleged to be missing is not critical to the Department's margin calculation.
- Winlex's zero depreciation does not justify disregarding Winlex's FY 2011 financial statements since (1) other companies whose financial statements are used to calculate the average surrogate financial ratios include depreciation and the averages are applied to Power Dekor's build-up; (2) Winlex's manufacturing overhead could represent renting capital equipment; and (3) Winlex's FY 2011 financial statements should not be rejected simply because its experience does not mirror the experience of other producers of comparable merchandise.
- The Department should not reject the financial statements of Winlex and Davao because advances from their shareholders are simply investments in the companies they already own and the Department has no history of rejecting companies on that basis. The Department should not consider these advances as being similar to a loan from an unaffiliated third party.
- The Department should continue to use Winlex's and Davao's FY 2011 financial statements because record evidence establishes that these companies are producers of comparable merchandise.

Department's Position: In selecting surrogate values ("SV") for factors of production, section 773(c)(1) of the Tariff Act of 1930, as amended, instructs the Department to use the "best available information" from the appropriate market economy country. The Department's criteria for choosing surrogate companies are the availability of contemporaneous financial information, comparability to the respondent's experience, and public availability of the information.[6] To value factory overhead, selling, general, and administrative expenses, and profit, the record of this review includes seven audited financial statements for the year ending December 2011 from seven Philippine surrogate companies. The Department used all seven Philippine FY 2011 financial statements in the *Preliminary Results*.

For the final results, we calculated the surrogate financial ratios using five of the Philippine FY 2011 financial statements: (1) Smart Plywood Industries Inc.; (2) Tagum PPM Wood Veneer, Inc.; (3) Novawood Forest Industries Corporation; (4) Philippine Softwood Products, Inc.; and (5) Richmond Plywood Corporation, because we find these financial statements represent the best available information within the meaning of the statute.[7] These five companies are producers of comparable merchandise in the primary surrogate country, and the companies' publicly available financial statements are audited, complete, contemporaneous with the period of review, and

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[6] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 3.

[7] No changes to SVs have been made since the *Preliminary Results* were issued. Therefore, we are not issuing a companion surrogate value memorandum. For a summary of the surrogate values used in the final results of this review and the revised financial ratios calculation, *see* Memorandum to the File from Trisha Tran, International Trade Compliance Analyst, Office 4, through Charles Riggle, Program Manager, Office 4, entitled "New Shipper Review for Multilayered Wood Flooring from the People's Republic of China: Final Analysis Memo for Power Dekor Group Co., Ltd.," dated concurrently with this memorandum.

reflect no evidence of subsidies found to be countervailable. Additionally, we excluded Winlex's and Davao's FY 2011 financial statements from the surrogate financial ratio calculations.

With respect to Winlex's FY 2011 financial statements, we agree with CAHP that we cannot use these financial statements to calculate the surrogate financial ratios because they are incomplete. More specifically, the balance sheet lists Note 9 as the supporting schedule for Winlex's "Property, Plant, and Equipment" line-item but Note 9 was not included in Winlex's FY 2011 financial statements. According to Power Dekor, Winlex's FY 2011 financial statements are a complete copy of the official annual report submitted to the Security and Exchange Commission of the Philippines with no missing pages. We find this argument unconvincing. Because the financial statements are not numbered, we cannot determine conclusively if they are in consecutive order. Nonetheless, the balance sheet explicitly refers to multiple notes including Note 9.[8] While other notes were included with the financial statements, Note 9 is missing.[9] Accordingly, we find that Winlex's FY 2011 financial statements are incomplete.

Power Dekor further contends that even if the Department finds that the statements are incomplete, the Department should nevertheless continue using the statements because "it is {the Department's} practice to only disregard incomplete financial statements as a basis for calculating surrogate financial ratios where the statement is missing key sections, such as sections of the auditor's note, that are vital to our analysis and calculations."[10] We disagree. Our practice is to exclude surrogate financial statements that are incomplete. For instance, in *Xanthan Gum*,[11] the Department determined that the financial statements from a Thai producer were not useable because they were missing several footnotes that may be material in determining the usability of its financial statements.[12] In that case, the Department stated that "the absence of entire footnotes or complete translations precludes the Department from fully evaluating the financial information set forth in these financial statements."[13] Similarly, Winlex's FY 2011 financial statements are missing an entire schedule which provides details of its physical assets.[14] Without this schedule, we cannot determine the usability of the financial statements because the absence of an entire schedule precludes the Department from fully evaluating the financial information set forth in these financial statements. Consistent with our practice, we excluded Winlex's FY 2011 financial statements from consideration in the final results because they are incomplete. Because we rejected Winlex's FY 2011 financial statements on that basis, all other arguments raised by CAHP are moot.

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[8] *See* Letter from Power Dekor to the Secretary of Commerce, entitled "New Shipper Review for Multilayered Wood Flooring from the People's Republic of China: Surrogate Value Comments of Power Dekor Group Co. Ltd.," dated November 20, 2012 ("Power Dekor's SV Comments) at Exhibit 2.
[9] *Id.*
[10] *See Galvanized Steel Wire From the People's Republic of China and Mexico: Initiation of Antidumping Duty Investigations*, 76 FR 23548, 23551 (Apr. 27, 2012).
[11] *See Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 33351 (June 4, 2013) ("*Xanthan Gum*"), and accompanying Issues and Decision Memorandum at Comment 1.
[12] In *Xanthan Gum*, the record included another financial statement that was complete and fully translated.
[13] *Id.*
[14] *See* Power Dekor's SV Comments at Exhibit 2.

With respect to Davao's FY 2011 financial statements, Note 10 of the audited financial statements shows that Davao benefitted from zero-percent loans from its shareholders. CAHP argues that Davao's FY 2011 financial statements should, therefore, not be used in the financial ratio calculation. We partially agree. The Department's longstanding practice is to include all interest expense from financial statements in financial ratio calculations.[15] Davao's financial statements have evidence of zero-interest loans from its shareholders. On their face, Davao's FY 2011 financial statements appear unusual and could result in an understatement of interest expenses. The Department does not have the exact terms of the loan contract and cannot determine the final impact of the loan on the financial ratios. It is the Department's practice to rely on the information in the surrogate financial statements and not go behind the line-items in the surrogate financial statements.[16] Because it is the Department's practice to not go behind the financial statements and there are other usable financial statements on the record, we excluded Davao's FY 2011 financial statements from consideration in the final results because, in this case, there are other usable financial statements on the record.

Finally, we disagree with Power Dekor's contention that Davao's FY 2011 financial statements should not be excluded because advances from shareholders are simply investments in the companies they already own and there is no record evidence that would justify the Department considering these advances as something similar to a loan from an affiliated party. Davao's FY 2011 financial statements include affiliated party transactions that qualify as loans because they carry specific repayment terms: "{s}aid advances is payable in ten (10) years with no interest."[17] As such, we have determined that these shareholder advances should be treated like a loan from an unaffiliated third party, not shareholder investments.

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[15] *See Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940 (August 19, 2011), and accompanying Issues and Decision Memorandum at Comment 7.
[16] *Id.*
[17] *See* Power Dekor's SV Comments at Exhibit 3.

RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above position. If this recommendation is accepted, we will publish the final results of this new shipper review in the *Federal Register*.

Agree ✓ Disagree ___

Paul Piquado
Assistant Secretary
for Import Administration

16 AUGUST 2013
Date