




A-570-890
AR: 1/1/12-12/31/12
NSR: 1/1/12-12/31/12
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DATE: August 25, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Wooden Bedroom Furniture from the People's Republic of China:
Issues and Decision Memorandum for the Final Results of the
2012 Administrative Review and New Shipper Review

SUMMARY

The Department of Commerce ("Department") analyzed the case and rebuttal briefs submitted by interested parties in the above-referenced administrative review ("AR") and new shipper review ("NSR"). As a result of our analysis we made changes to our dumping margin calculations for the participating mandatory respondent in the AR, Hualing Furniture (China) Co., Ltd., Tony House Manufacture (China) Co., Ltd., Buysell Investments Ltd., and Tony House Industries Co., (collectively "Tony House Group") and in the NSR for the new shipper Dongguan Chengcheng Co., Ltd. ("Dongguan Chengcheng"). We recommend that you approve the positions described in the "Discussion of the Issues" section of this Memorandum.

Background

On February 26, 2014, the Department published in the Federal Register the Preliminary Results of the administrative review and new shipper review of the antidumping duty order on wooden bedroom furniture ("WBF") from the People's Republic of China.¹ We invited parties to comment on our Preliminary Results. On March 18, 2014, the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. ("Petitioners") submitted financial statements in the AR.² On April 4, 2014, the following

¹ See Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2012, 79 FR 10768 (February 26, 2014) ("Preliminary Results").

² See Letter from Petitioners to the Department, Re: "Wooden Bedroom Furniture from the People's Republic of China: Petitioners' Post-Preliminary Results Submission of Publicly Available Philippine Financial Statements," dated March 18, 2014.



companies submitted case briefs for the AR: Mark David USA (“Mark David”),³ an importer of subject merchandise; Tony House Group;⁴ Marvin Furniture (Shanghai) Co., Ltd. (“Marvin Furniture”) also a mandatory respondent in the AR;⁵ and Petitioners.⁶ On April 9, 2014, the following companies submitted rebuttal briefs: Foliot Furniture Inc./Meubles Foliot Inc. (“Foliot”);⁷ and Petitioners.⁸

On March 18, 2014, Dongguan Chengcheng Furniture Co., Ltd. (“Dongguan Chengcheng”) submitted surrogate value (“SV”) information for the final results of the NSR.⁹ On March 28, 2014, Petitioners submitted rebuttal SV information for the final results of the NSR.¹⁰ On April 4, 2014, Petitioners and Dongguan Chengcheng submitted case briefs for the NSR.¹¹ On April 9, 2014, Petitioners and Dongguan Chengcheng submitted rebuttal briefs for the NSR.¹²

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with

³ See Letter from Mark David to the Department, Re: “Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People’s Republic of China: Case Brief of Mark David USA and Baker, Knapp & Tubbs, Inc.,” dated April 4, 2014 (“Mark David Case Brief”).

⁴ See Letter from the Tony House Group to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China: Case Brief,” dated April 4, 2014 (“Tony House Group Case Brief”).

⁵ See Letter from Marvin Furniture to the Department, Re: “Case Brief of Marvin Furniture (Shanghai) Co., Ltd., Wooden Bedroom Furniture from the People’s Republic of China, Case No. A-570-890,” dated April 4, 2014 (“Marvin Furniture Case Brief”).

⁶ See Re: “Wooden Bedroom Furniture from the People’s Republic of China/ Petitioners’ Case Brief, dated April 4, 2014 (“Petitioners’ AR Case Brief”).

⁷ See Letter from Foliot to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China,” dated April 9, 2014 (“Foliot Rebuttal Brief”).

⁸ See Letter from Petitioners to the Department, Re: “Wooden Bedroom Furniture From The People's Republic Of China/ Petitioners’ Rebuttal Brief,” dated April 9, 2014 (“Petitioners’ AR Rebuttal Brief”).

⁹ See Letter from Dongguan Chengcheng to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China – Surrogate Values for Final Results,” dated March 18, 2014 (“Dongguan Chengcheng SV Information”).

¹⁰ See Letter from Petitioners to the Department, Re: “Wooden Bedroom Furniture From the People’s Republic of China: Petitioners’ Post-Preliminary Results Rebuttal Surrogate Value Information,” dated March 28, 2014 (“Petitioners’ NSR Rebuttal SV Information”).

¹¹ See Letter from Petitioners to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China/ Petitioners’ Case Brief, dated April 4, 2014 (“Petitioners’ NSR Case Brief”); see also Letter from Dongguan Chengcheng to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China – Case Brief,” dated April 4, 2014 (“Dongguan Chengcheng Case Brief”).

¹² See Letter from Petitioners to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China/ Petitioners’ Rebuttal Brief, dated April 9, 2014 (“Petitioners’ NSR Rebuttal Brief”); see also Letter from Dongguan Chengcheng to the Department, Re: “Wooden Bedroom Furniture from the People’s Republic of China – Rebuttal Brief,” dated April 4, 2014 (“Dongguan Chengcheng Rebuttal Brief”).

or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,¹³ highboys,¹⁴ lowboys,¹⁵ chests of drawers,¹⁶ chests,¹⁷ door chests,¹⁸ chiffoniers,¹⁹ hutches,²⁰ and armoires;²¹ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,²² highboys,²³ lowboys,²⁴ chests of drawers,²⁵ chests,²⁶

¹³ A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

¹⁴ A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

¹⁵ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

¹⁶ A chest of drawers is typically a case containing drawers for storing clothing.

¹⁷ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

¹⁸ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

¹⁹ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

²⁰ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

²¹ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

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door chests,²⁷ chiffoniers,²⁸ hutches,²⁹ and armoires;³⁰ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;³¹ (9) jewelry armories;³² (10) cheval mirrors;³³ (11) certain metal parts;³⁴ (12) mirrors that do not attach to, incorporate in, sit on, or hang over a

²⁷ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

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²⁹ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

³⁰ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

³¹ As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

³² Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum ("I&D Memorandum") from Laurel LaCivita to Laurie Parkhill, Office Director, concerning "Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China," dated August 31, 2004; see also Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part, 71 FR 38621 (July 7, 2006).

³³ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

³⁴ Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds³⁵ and (14) toy boxes.³⁶

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the U.S. Harmonized Tariff Schedule (“HTSUS”) as “wooden . . . beds” and under subheading 9403.50.9080 of the HTSUS as “other . . . wooden furniture of a kind used in the bedroom.” In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as “parts of wood.” Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

DISCUSSION OF THE ISSUES:

Comment 1: Whether There Are Errors in the Financial Ratio Calculations in the Administrative Review

Tony House Group

- The Department made clerical errors in calculating the surrogate financial ratios for the Preliminary Results. The Department incorrectly calculated the financial ratios for Heritage Meubles Mirabile Export, Inc. (“Heritage”) because it excluded from its calculation certain line items from Heritage’s financial statements.
- Additionally, the Department incorrectly entered certain financial ratios into the surrogate value worksheet that was used to calculate Tony House’s antidumping duty margin. The Department should correct these errors for the Final Results.

³⁵ Upholstered beds that are completely upholstered, *i.e.*, containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 72 FR 7013 (February 14, 2007).

³⁶ To be excluded the toy box must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (ASTM) standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children’s items such as toys, books, and playthings. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling Memorandum “Wooden Bedroom Furniture from the People’s Republic of China: Scope Ruling on a White Toy Box,” dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

Department's Position:

We agree with the Tony House Group that we incorrectly calculated financial ratios for one surrogate company, Heritage. Specifically, the Department inadvertently double-counted 'Gasoline and Oil' and excluded 'Miscellaneous Expenses' from the selling, general, and administrative ("SG&A") expenses used to calculate Heritage's financial ratios. Also, we agree that the Department incorrectly entered certain financial ratios into the surrogate value worksheet that was used to calculate Tony House's antidumping duty margin. The Department corrected these errors for the final results of this review.³⁷

Comment 2: Whether Marvin Furniture has Demonstrated Eligibility for Separate Rate Status

Marvin Furniture

- Even though Marvin Furniture (a mandatory respondent) did not respond to all sections of the Department's questionnaire (specifically, Sections C and D), it is entitled to separate rate status.
- In its separate rate application and its response to Section A of the Department's questionnaire, Marvin Furniture certified that it was wholly owned by individuals in market-economy countries and provided the Department with sufficient information to confirm its separate rate status.
- Although Marvin Furniture did not respond to Sections C and D of the Department's questionnaire, Marvin Furniture did not withdraw from participating in the review. Marvin Furniture reserved the right to participate in the review and to address certain issues that required its input.
- Marvin Furniture's inability to participate in the review as a mandatory respondent has no bearing on its separate-rate status.
- The Department's determination that Marvin Furniture is part of the PRC-wide entity is not supported by record evidence.³⁸

Petitioners

- Mandatory respondents must fully participate in a segment of a proceeding in order to receive a separate rate.
- Marvin Furniture is requesting that the Department disregard its refusal to respond to Sections C and D of the Department's questionnaire, even though it was selected as a mandatory respondent.
- The Department's practice is to deny separate rate status to mandatory respondents that fail to respond to all parts of the questionnaire.
- The Department notified parties that if they were selected as mandatory respondents, they would be required to submit complete responses to qualify for separate rate status.
- The Department has denied separate rate status to companies selected as mandatory respondents that have not participated in other segments of this proceeding.

³⁷ See Surrogate Value Memorandum for the Final Results of Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China from Patrick O'Connor to the File dated concurrently with this memorandum.

³⁸ See Marvin Furniture Case Brief at 2.

Department's Position:

We agree with Petitioners. In proceedings involving non-market economy (“NME”) countries, the Department maintains a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.³⁹ Marvin Furniture argues that it is not part of the PRC-wide entity because it certified that it was wholly owned by individuals located in market-economy countries and provided sufficient information to confirm this fact.

However, after examining Marvin Furniture’s separate-rate application, response to the quantity and value questionnaire, and Section A response, the Department had additional questions pertaining to Marvin Furniture’s responses. As a result, the Department issued a supplemental questionnaire to Marvin Furniture.⁴⁰ Yet, seven days after the Department issued its supplemental questionnaire inquiring about Marvin Furniture’s responses, Marvin Furniture informed the Department that it decided “to withdraw from active participation as a mandatory respondent in this review . . .”⁴¹ Marvin Furniture did not respond to the supplemental questionnaire and the Department did not have the opportunity to verify any of the information placed on the record by Marvin Furniture, including its separate rate application, rendering it unreliable.

Furthermore, in the Initiation Notice, the Department notified all parties that exporters and producers that submitted a separate rate application or separate rate certification that were subsequently selected as mandatory respondents, would no longer be eligible for separate-rate status unless they respond to all parts of the questionnaire as mandatory respondents.⁴² During the course of this review,⁴³ Marvin Furniture requested to be selected as a mandatory

³⁹ See Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588 (May 6, 1991) (“Sparklers”), as amplified by Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China, 59 FR 22585 (May 2, 1994) (“Silicon Carbide”); see also 19 CFR 351.107(d).

⁴⁰ See Letter from the Department to Marvin Furniture, Re: “Supplemental Section A Questionnaire in the Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People’s Republic of China,” dated July 10, 2013.

⁴¹ See Letter from Marvin Furniture to the Department, Re: “Withdrawal as Mandatory Respondent from the Eight Administrative Review of Wooden Bedroom Furniture from the People’s Republic of China, Case No. A-570-890,” dated July 18, 2013 at 1.

⁴² See Wooden Bedroom Furniture from the People’s Republic of China: Initiation of Administrative Review, 78 FR 13626, 13627 (February 28, 2013) (“Initiation Notice”).

⁴³ See Letter From Marvin Furniture to the Department, Re: “Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People’s Republic of China: Request of Marvin Furniture (Shanghai) Co. Ltd. For the Administrative Review and Request for Voluntary Respondent Treatment,” dated January 31, 2013.

respondent,⁴⁴ submitted a separate rate application, and was subsequently selected as a mandatory respondent.⁴⁵

However, Marvin Furniture did not respond to sections C or D of the questionnaire. Mandatory respondents may not dictate their level of participation for the purposes of determining a more favorable separate rate based on another party's data. After providing separate rate information, a mandatory respondent could cease participating in a proceeding by not responding to section C or D of the antidumping questionnaire, believing that its own data may result in a higher antidumping duty margin than if it simply participated as a separate-rate respondent. Thus, the Department instituted a practice that a respondent must provide all information that has been requested by the Department and not selectively choose which requests to respond to or which information to submit.⁴⁶ Consistent with that practice, the Initiation Notice informed all parties including Marvin Furniture of this practice and specifically notified parties, including Marvin Furniture, that if they were selected as mandatory respondents they would no longer be eligible for separate-rate status unless they respond to all parts of the questionnaire as mandatory respondents.⁴⁷ Marvin Furniture cannot participate in one aspect of the review, while simultaneously failing to provide complete, accurate and verifiable data with respect to other required elements of that review.⁴⁸

Finally, Marvin Furniture has not cited any precedent in which the Department granted separate rate status to a mandatory respondent which failed to respond to all sections of the questionnaire. Therefore, we continue to find that Marvin Furniture is ineligible for separate rate status and should be treated as part of the PRC-wide entity.

⁴⁴ See Letter from Marvin Furniture to the Department, Re: "Wooden Bedroom Furniture from the People's Republic of China: Separate Rate Application," dated April 1, 2013 (filed April 29, 2013) ("Marvin Furniture SRA").

⁴⁵ See Letter from the Department to Marvin Furniture, Re: "Wooden Bedroom Furniture from the People's Republic of China," dated May 31, 2013.

⁴⁶ See, e.g., Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011, 78 FR 35249 (June 12, 2013), and accompanying Issues and Decision Memorandum at Comment 1; Fresh Garlic from the People's Republic of China: Partial Preliminary Results, Rescission of, and Intent To Rescind, in Part, the 2009-2010 Administrative Review, 76 FR 65172, 65174 (October 20, 2011), unchanged in Fresh Garlic From the People's Republic of China: Partial Final Results and Partial Final Rescission of the 2009-2010 Administrative Review, 77 FR 11486, 11487 (February 27, 2012); Fresh Garlic from the People's Republic of China: Preliminary Results of, Partial Rescission of, and Intent to Rescind, in Part, the 15th Antidumping Duty Administrative Review, 75 FR 80458, 80465 (December 22, 2010), unchanged in Fresh Garlic From the People's Republic of China: Final Results and Final Rescission, in Part, of the 2008-2009 Antidumping Duty Administrative Review, 76 FR 37321 (June 27, 2011).

⁴⁷ See Initiation Notice at 13628.

⁴⁸ See Amended Final Results of Antidumping Duty Administrative Review and New Shipper Reviews: Wooden Bedroom Furniture From the People's Republic of China, 72 FR 46957 (August 22, 2007) ("WBF Amended Final"), and accompanying I&D Memorandum at Comment 43 where the Department established the requirement to inform all parties that failure to respond to all sections of the Department's questionnaire would result in the loss of a respondent's separate rate.

Comment 3: Whether Entries of Shanghai Maoji’s Merchandise Should Be Liquidated as Entered

Mark David

- In the Initiation Notice, the Department noted that Shanghai Maoji had a “separate rate as of the latest segment of the proceeding” (i.e., the 2010 administrative review of wooden bedroom from the PRC).⁴⁹
- Because all review requests were withdrawn for Shanghai Maoji before the 90-day deadline to withdraw review requests, Shanghai Maoji was not under review.
- 19 CFR 351.212(c)(1)(i) establishes that where an exporter of subject merchandise is not subject to an administrative review for a particular review period, its entries during the relevant review period are to be liquidated at the rate in effect at the time of entry (i.e., the cash deposit rate in effect during the POR).
- Here, the Department is departing from this established practice by imputing the results of the 2011 administrative review, in which Shanghai Maoji lost its separate rate status, to the 2012 administrative review.⁵⁰
- Because the Department did not review Shanghai Maoji in the 2012 administrative review, the Department lacks the authority to modify Shanghai Maoji’s company-specific rate by placing it in the PRC-wide entity and should liquidate its entries at its cash deposit rate of 6.88 percent.
- The Department’s conditional review of the PRC does not apply to Shanghai Maoji because it had its own separate rate from the investigation and its entries were made under its own case number, not the PRC-wide entity rate. The fact that Shanghai Maoji was found to be part of the PRC-wide entity in the 2011 review is insufficient to invoke conditional coverage.⁵¹

Petitioners did not comment on this issue.

Department’s Position:

We agree with Mark David. Under these particular facts and circumstances, we believe it is appropriate to instruct CBP to liquidate entries of Shanghai Maoji’s merchandise as entered, i.e., at the cash deposit rate in effect during the POR. Further, because we identified five other companies or company groupings with similar circumstances, we will instruct CBP to liquidate entries of their merchandise at the deposit rate as well. The other companies or company groupings are as follows: (1) Alexandre International Corp., Southern Art Development Ltd., Alexandre Furniture (Shenzhen) Co., Ltd., Southern Art Furniture Factory; (2) Billy Wood Industrial (Dong Guan) Co., Ltd., Great Union Industrial (Dongguan) Co., Ltd., Time Faith Ltd.;

⁴⁹ See Initiation Notice at 13629.

⁵⁰ See Timken Co. v. United States, 20 CIT 645, 660 (1996) (“Timken”) (it is well-established law and agency practice that each individual administrative review is an independent and distinct proceeding).

⁵¹ See Huayin Foreign Trade Corp. (30), Worldwide Link, Inc., Captain Charlie Seafood Wholesale Co., USA, Boston Seafood Processors, Inc., GRMI Inc., and Ocean Duke Corp. v. United States, 322 F.3d 1369 (CAFC 2003) (“Huayin”) (exporters that do not have separate rate status may be subject to changes in the PRC-wide entity rate even when they are not specifically named in the initiation notice of a review).

(3) Dongguan Huansheng Furniture Co., Ltd.; (4) Dongying Huanghekou Furniture Industry Co., Ltd.; and (5) Sheng Jing Wood Products (Beijing) Co., Ltd., Telstar Enterprises Ltd.⁵²

Comment 4: The Appropriate Dumping Margin to Apply to Marvin Furniture and Shanghai Maoji as Part of the PRC-Wide Entity

Marvin Furniture

- Marvin Furniture should not be assigned the PRC-wide rate of 216.01 percent. The 216.01 percent rate for the PRC-wide entity is unreasonably high and has no relationship to Marvin Furniture’s “commercial reality.”
- In Bestpak,⁵³ the CAFC determined that even when the Department applies adverse facts available (“AFA”), it may not select unreasonably high rates that have no relationship to a respondent’s margin.
- Here, the Department cannot apply an AFA rate from a prior review to a participant in a current review without evidence that the rate remains reasonable under the circumstances. There is no record evidence that supports applying the 216.01 percent rate to Marvin Furniture.
- The Department cannot apply a 216.01 percent rate from a prior review to Marvin Furniture without giving it the opportunity to comment on whether the rate is based on its “commercial reality.”

Mark David

- Application of the 216.01 percent rate to Shanghai Maoji is unsupported by substantial evidence and contrary to CIT precedent.⁵⁴ The 216.01 percent rate is based on a margin calculated in a 2004-2005 new shipper review in this proceeding.⁵⁵ The Department may only rely on a rate from a prior segment of a proceeding if it has been corroborated and no party submits information that undermines the reliability of the rate. In this and other segments of the WBF proceeding, the Department has calculated significantly lower margins for other respondents.
- In various cases, the CIT held that the PRC-wide rate must be based on reliable record evidence, corroborated, reflect the “commercial reality” of the respondent, and be relevant to the rate of the all-others respondents.⁵⁶ Consistent with those rulings, the CIT did not allow the Department to apply a 216.01 percent AFA rate to an uncooperative mandatory respondent in another segment of this proceeding because the rate was not corroborated and failed to reflect the respondent’s “commercial reality.”⁵⁷ The Department’s continued use of the 216.01 percent rate is contrary to CIT precedent, and disregards information that decisively rejects the reliability and relevance of the rate.

⁵² See Wooden Bedroom Furniture From the People’s Republic of China: Partial Rescission of Antidumping Duty Administrative Review, 78 FR 60844 (October 2, 2013) (“2012 WBF Rescission”).

⁵³ See Yangzhou Bestpak Gifts & Crafts Co. v. United States, 716 F. Supp. 3d 1370 (CAFC 2013) (“Bestpak”).

⁵⁴ See Mark David’s Case Brief at 5-6.

⁵⁵ See Wooden Bedroom Furniture from the People’s Republic of China, 71 FR 70739 (December 6, 2006) (“2004-2005 NSR”).

⁵⁶ See MacLean-Fogg Co. v. United States, 853 F. Supp. 2d 1336 (CIT 2012) (“MacLean-Fogg”).

⁵⁷ See Lifestyle Enter., Inc. v. United States, 807 F. Supp. 2d 1286, 1298 (CIT 2011) (“Lifestyle I”).

- The PRC-wide entity must be assigned a lower, corroborated margin, such as 83.55 percent. This rate, as opposed to the 216.01 percent rate, was accepted by the CIT in litigation involving another segment of the WBF proceeding.⁵⁸

Petitioners

- The 216.01 percent rate is an appropriate PRC-wide rate because it has been corroborated for the PRC-wide entity as recently as the 2009 AR of WBF,⁵⁹ and no party has submitted evidence challenging the corroboration of the PRC-wide rate. The Department is not applying the 216.01 percent rate to Marvin Furniture or Shanghai Maoji as AFA; rather, it is applying the rate to the PRC-wide entity, which includes Marvin Furniture and Shanghai Maoji. Lifestyle I and Lifestyle IV did not invalidate the 216.01 percent rate for the PRC-wide entity; rather the rate was not upheld as an AFA rate for a mandatory respondent that demonstrated its eligibility for separate rate status.
- Even if the Department determines that Marvin Furniture or Shanghai Maoji is entitled to separate-rate status and applies an AFA rate to either of these companies, the 83.55 percent rate from Lifestyle IV should not be applied to these companies. The 83.55 percent rate was based on the facts in the review underlying the Lifestyle litigation and cannot be recreated based on the facts of this review. Record information indicates that Marvin Furniture’s dumping margin would be higher than 216.01 percent;⁶⁰ therefore, the 216.01 percent rate is appropriate for Marvin Furniture, Shanghai Maoji, and the PRC-wide entity.
- Nonetheless, if the Department grants Marvin Furniture or Shanghai Maoji a separate rate, the separate rate should be based on AFA.

⁵⁸ See Lifestyle Enter., Inc. v. United States, 896 F. Supp. 2d 1297 (CIT 2013) (“Lifestyle IV”).

⁵⁹ See Wooden Bedroom Furniture from the People’s Republic of China: Final Results and Final Rescission in Part, 76 FR 49729 (August 11, 2011) (“WBF 2009 Final”).

⁶⁰ Petitioners calculated an estimated dumping margin for two of the three pieces of furniture for which Marvin Furniture provided sales invoices as described below. Petitioners calculated a constructed export price (“CEP”) by subtracting the CEP expenses, as a percentage of sales, to derive the U.S. price at the port. Petitioners calculated the CEP expense ratio by dividing the sum of Marvin Furniture’s U.S. affiliate’s import costs, sales and marketing costs, administration and overhead expenses, and other revenue by its total revenue. Using a 7501 U.S. entry form that Marvin Furniture provided, Petitioners calculated international transportation costs per furniture piece. Petitioners subtracted the international transportation expenses for the three pieces of furniture to derive the Free on Board (“FOB”) price at the China port. Petitioner also calculated the material cost per unit by multiplying the net weight per piece of furniture by the surrogate value for medium density fiberboard. Relying on the financial ratios used to calculate Tony House’s margin for the preliminary results, Petitioners multiplied the material costs per unit by the overhead ratio to calculate factory overhead and added this overhead figure to material costs to calculate the cost of manufacturing. Then Petitioners multiplied the cost of manufacturing by the SG&A ratio to calculate SG&A costs which they added to the cost of manufacturing to derive the cost of production. Petitioners multiplied the cost of production by the profit ratio to calculate profit. Petitioners added the profit to the cost of production to calculate an estimated normal value for each furniture piece. Petitioners subtracted the FOB China price from the estimated normal value to calculate a per-unit dumping amount. Petitioners then divided the per-unit dumping amount by the FOB China price to derive the per-unit dumping margin. As noted above, Petitioners calculated margins higher than 216.01 percent for two of three items for which Marvin Furniture provided sales invoices. See Petitioners’ April 9, 2014 rebuttal brief at 18.

Department's Position:

We continue to find the 216.01 percent rate to be an appropriate rate for Marvin Furniture because it failed to demonstrate its eligibility for a separate rate and, thus, is part of the PRC-wide entity. We addressed Shanghai Maoji's situation in Comment 3 above. The Department has applied the 216.01 percent rate to the PRC-wide entity in several other segments of this proceeding.⁶¹ Although Mark David questions the 216.01 percent rate based on the final weighted-average dumping margins calculated for mandatory respondents in recent reviews, as recently as the 2009 AR of this proceeding, the Department corroborated the 216.01 percent rate for the PRC-wide entity using transaction-specific margins of the mandatory respondent. In the 2009 AR the Department noted that “{s}ince the 216.01 percent margin is within the range of transaction-specific margins on the record of this administrative review, the Department has determined that the 216.01 percent margin continues to be relevant for use as an AFA rate for the PRC-wide entity in this administrative review.”⁶²

Moreover, the argument regarding the 216.01 percent rate reflecting Marvin Furniture's “commercial reality” is not applicable in this situation. Although Mark David characterizes the 216.01 percent rate as an AFA rate, the Department did not assign the 216.01 percent rate to Marvin Furniture as a separate rate based on AFA. Rather, the Department assigned Marvin Furniture, like the multiple exporters that have not established their eligibility for a separate rate and are part of the PRC-wide entity, the PRC-wide entity rate of 216.01 percent. The issue of whether the assigned rate is reflective of “commercial reality” applies only when the Department selects an AFA rate for a respondent, which the Department is not doing here for Marvin Furniture.⁶³ Additionally, the CIT has held that the Department “need not corroborate the PRC-wide rate with respect to information specific to that respondent because there is ‘no requirement that the PRC-wide entity rate based on AFA relate specifically to the individual company.’”⁶⁴ Thus, the Department does not need to determine whether the 216.01 percent rate is reliable and relevant with respect to Marvin Furniture. Further, the CIT has held that in situations such as this the PRC-wide “rate must only be generally corroborated as to the PRC-wide entity.”⁶⁵ As noted above, the 216.01 percent rate was corroborated as to the PRC-wide entity in the 2009 AR.

⁶¹ See Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part, 77 FR 51754 (August 27, 2012); WBF 2009 Final; Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part, 75 FR 50992 (August 10, 2010); Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, 74 FR 41373 (August 17, 2009); Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 73 FR 49162 (August 20, 2008).

⁶² See WBF 2009 Final, 76 FR at 49733.

⁶³ See Watanabe Group v. United States, 2010 CIT LEXIS 144 *15 (CIT 2010) (“Watanabe”) (“Here, Gallant does not apply in the manner asserted by Watanabe because Commerce has determined Watanabe to be part of the PRC-wide entity and therefore Watanabe has not received a separate AFA rate.”).

⁶⁴ See Watanabe, 2010 CIT LEXIS 144 *14 (quoting Peer Bearing Co. – Changshan v. United States, 587 F. Supp. 2d 1319, 1327 (CIT 2008) (“Peer Bearing”)); see id. (stating that when a respondent is part of the PRC-wide entity, inquiring into its “separate sales behavior ceases to be meaningful”); see also Peer Bearing (holding that there is no requirement that the Department corroborate a PRC-wide rate based on AFA, pursuant to section 776(c) of the Act, with respect to a mandatory respondent that does not qualify for a separate rate).

⁶⁵ See Peer Bearing, 587 F. Supp. 2d at 1327.

In the Lifestyle I and Lifestyle IV decisions, the CIT did not invalidate the 216.01 rate with respect to the PRC-wide entity. Rather, the CIT held that the 216.01 percent rate should not be applied as AFA to a respondent that received a separate rate because the rate did not reflect the respondents' "commercial reality." Here, Marvin Furniture did not qualify for separate rate status and was not assigned a separate rate based on AFA. Therefore, it is still appropriate to apply the 216.01 percent rate to the PRC-wide entity, which includes Marvin Furniture.

Lastly, in Bestpak, the CAFC held that the Department could not apply unreasonably high rates to companies that demonstrated their eligibility for separate rate status. In Bestpak, one mandatory respondent received a de minimis margin while the other mandatory respondent failed to participate in the investigation and received a rate based entirely on AFA (i.e., 247.65 percent). The Department applied a rate of 123.83 percent (which was based on a simple average of the rates for the two respondents in the investigation) to companies which demonstrated their eligibility for separate rate status. The CAFC ruled that the 123.83 percent rate assigned to those companies was unreasonably high and there was no basis to tie the rate to the separate rate respondents' commercial activity. However, here, as noted above, the Department does not need to determine whether the 216.01 percent rate is reliable and relevant with respect to Marvin Furniture. The PRC-wide rate must only be generally corroborated as to the PRC-wide entity. As discussed above, the Department has corroborated the PRC-wide entity rate of 216.01 percent multiple times in different segments of the WBF proceeding.

In addition, in Bestpak, the CAFC rejected the 123.83 percent rate for companies that demonstrated their separate rate status, because the rate was based, in part, on a total AFA rate. In this review, Marvin Furniture did not cooperate as a mandatory respondent and has not demonstrated its eligibility for separate rate status. Thus, the facts in this review are distinguishable from those in Bestpak where the rate in question was being applied to companies granted separate rate status. In these final results of review, we are continuing to treat Marvin Furniture as part of the PRC-wide entity which has a corroborated rate of 216.01 percent.

Comment 5: Whether the Liquidation Instructions for the Administrative Review Should be Revised

Petitioners

- Some of the companies losing their separate rates in this review have been assigned more than one antidumping duty company number for customs purposes. The Department's draft liquidation instructions do not account for these additional company-specific antidumping duty case numbers. The Department should include these additional company-specific numbers in its final liquidation instructions.
- The language the Department included in its draft final liquidation instructions to describe who imported subject merchandise exported by Foliot Furniture Inc./Meubles Foliot Inc. is inaccurate and should be revised to ensure that the subject merchandise is liquidated properly (details regarding the proposed revision are proprietary and thus cannot be included here).

Foliot

- With respect to Petitioner’s comments on Foliot, “Foliot Furniture Inc.” and “Meubles Foliot Inc.” are English and French versions of the name of a single company and thus should be listed as “Foliot Furniture Inc./Meubles Foliot Inc.” in the liquidation instructions rather than as the names of separate companies.
- Any revisions that the Department makes to the final liquidation instructions should not be blanket instructions to CBP to liquidate all wooden bedroom furniture from the PRC that was entered by Foliot Furniture Pacific Inc. or Foliot Furniture Inc./Meubles Foliot Inc. at the PRC-wide rate, regardless of the company-specific antidumping duty number under which the entries were made. Imports of Foliot’s subject merchandise should be liquidated at different rates depending upon the exporter of the merchandise.

Department’s Position:

The additional company-specific antidumping duty company numbers identified by Petitioners were deactivated prior to the POR. Specifically, antidumping duty case number A-570-890-189 for Dongguan Sunshine Furniture Co., Ltd. was deactivated on August 15, 2011; antidumping duty case numbers A-570-890-172 and A-570-890-173 were deactivated for Fujian Lianfu Forestry Co., Ltd. (a.k.a. Fujian Wonder Pacific Inc.), Fuzhou Huan Mei Furniture Co., Ltd., and Jiangsu Dare Furniture Co., Ltd. on September 29, 2010; antidumping duty case number A-570-890-181 was deactivated for Nanjing Nanmu Furniture Co., Ltd. on August 18, 2010; and antidumping duty case number A-570-890-131 was deactivated for Tianjin First Wood Co., Ltd. on September 29, 2010. Because these company-specific antidumping duty case numbers were deactivated prior to the POR, importers would not have been able to use these antidumping duty case numbers to enter subject merchandise into the United States during the POR. Therefore, it is not necessary to include the additional antidumping duty case numbers that Petitioners request in our PRC-wide liquidation instructions.

In regards to the comments on Foliot, because Foliot uses the English and French names interchangeably for one company,⁶⁶ we find that it is appropriate to refer to that company as “Foliot Furniture Inc., aka Meubles Foliot Inc.” rather than as separate companies in the final liquidation instructions. In addition, we agree with Foliot that the final liquidations instructions should take into account the rate determined for the specific exporter of the subject merchandise, where applicable.

Comment 6: Treatment of Labor Costs in Surrogate Financial Ratios

Dongguan Chengcheng

- The Department should treat wages and salaries of directors, managers, executives, administrative personnel, and sales personnel as labor expenses in calculating the surrogate financial ratios (*i.e.*, they should be included in the denominator of the ratio, not in the selling, general, and administrative (“SG&A”) expenses included in the numerator of the ratio).

⁶⁶ See Foliot’s April 24, 2014 rebuttal brief at page 2 of the submission in Attachment I.

- It is the Department’s policy to classify these labor expenses as labor as opposed to SG&A expenses if the Department values direct labor using labor rates from Chapter 6A of the International Labor Organization’s Yearbook of Labour Statistics (“ILO Yearbook”).⁶⁷
- If the Department continues to classify these labor costs as SG&A expenses, it will be double-counting Dongguan Chengcheng’s labor costs because these costs would be reflected in the SG&A expense rate applied to the respondent and reflected in the Chapter 6A labor rate used to value the respondent’s direct labor.

Petitioners

- Record evidence does not support Dongguan Chengcheng’s claim that Philippine Chapter 6A labor costs from the ILO Yearbook include costs for salaried directors, managers, executives, administrative personnel, and sales personnel.
- In support of its argument, Dongguan Chengcheng erroneously cites Sinks⁶⁸ where Chapter 6A labor costs were based on Thai NSO data, whereas, in the instant review, the Department relied on Philippine ILO Yearbook data to value labor. These two data sources include different labor costs.
- Even if, as Dongguan Chengcheng’s argument suggests, the labor rate used in the Preliminary Results reflects the wages of administrative and sales personnel, this would likely understate labor costs because such personnel likely have a lower wage rate than skilled production labor.
- There is no record evidence showing that including SG&A labor costs in the numerator of the financial ratio calculations would overstate labor costs.

Department’s Position:

As an initial matter, we find no basis for including the wages and salaries of directors, managers, executives, administrative and sales personnel as labor expenses in calculating the surrogate financial ratios. The labor expenses included in the denominator of the surrogate financial ratios are direct and indirect expenses related to manufacturing labor. Directors, managers, executives, and administrative and sales personnel are not employed in manufacturing products and thus their wages are more appropriately considered SG&A expenses.

Nonetheless, we recognize that, in some cases, there are certain SG&A expenses in surrogate financial statements that should be reclassified as labor in calculating surrogate financial ratios. Chapter 6A of the ILO Yearbook reflects all manufacturing costs related to labor, including wages, earnings, benefits, housing, training, *etc.*⁶⁹ Certain of these expenses are not manufacturing wages, but wage related expenses such as benefits. These items could be treated as SG&A expenses, rather than labor costs, in the financial statements used to calculate financial

⁶⁷ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011), and accompanying Issues and decision Memorandum at Comment 4 (“Labor Methodologies”).

⁶⁸ See Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013) (“Sinks”).

⁶⁹ See Labor Methodologies, at 36093 (“Chapter 6A data that reflects all costs related to labor including wages, benefits, housing, training, *etc.* ...”).

ratios because they are not direct wages but overhead costs associated with wages. Therefore, in Labor Methodologies, the Department stated the following:

Finally, the Department will determine whether the facts and information available on the record warrant and permit an adjustment to the surrogate financial statements on a case-by-case basis. If there is evidence submitted on the record by interested parties demonstrating that the NME respondent's cost of labor is overstated, the Department will make the appropriate adjustments to the surrogate financial statements subject to the available information on the record. Specifically, when the surrogate financial statements include disaggregated overhead and selling, general and administrative expense items that are already included in the ILO's definition of Chapter 6A data, the Department will remove these identifiable costs items.⁷⁰

In this review, we valued labor using data from Chapter 6A of the ILO Yearbook and the surrogate financial statements include sufficiently detailed labor-related expenses to allow the Department to isolate manufacturing labor, indirect labor and non-remuneration type compensation, such as employee benefits. Moreover, not only do the surrogate financial statements separately identify wage expenses from wage related benefits, but the financial statements separately list SG&A and manufacturing-related salaries and benefits.⁷¹ For example, some of the financial statements contain separate line items for wages, social security and retirement benefits under both the cost of goods sold section of the statements and under the SG&A expenses section of the statements.⁷² Consistent with Labor Methodologies, we treated any item identified as indirect labor or employee benefits in the cost of goods sold section of each of the surrogate financial statements as a labor expense to be included in the denominator of the surrogate financial ratios. We do not find a basis for treating employee benefits listed under SG&A expenses in the surrogate financial statements as manufacturing labor given that the surrogate financial statements have already identified employee benefits relating to manufacturing wages in the cost of goods sold section of the statements. As a result, we treated manufacturing-related salaries and benefits as labor expenses and SG&A-related salaries and benefits as SG&A expenses in our surrogate financial ratios.

Comment 7: The Appropriate Surrogate Value for MDF

Dongguan Chengcheng

- The Department should value Dongguan Chengcheng's medium density fiberboard ("MDF") using Philippine Harmonized Tariff Schedule ("HTS") category 4411.21.0000 – "Fiberboard of a density exceeding 0.5 g/cm³ but not exceeding 0.8 g/cm³ – not mechanically worked or surface covered."

⁷⁰ See Labor Methodologies, at 36094.

⁷¹ See e.g., information from the financial statements of Wicker & Vine Inc. and Berbenwood Industries Inc. in Exhibit 1 of Dongguan Chengcheng's April 4, 2014 case brief.

⁷² See e.g., information from the financial statements of Casa Cebuana Incorporada in Exhibit 1 of Dongguan Chengcheng's April 4, 2014 case brief showing income statement expense accounts for "Direct Labor," "SSS, HDMF and Philhealth Contributions," and "Retirement Benefits" under the category "Cost of Sales" as well as income statement expense accounts for "Salaries and Wages," "SSS, HDMF and Philhealth Contributions," and "Retirement Benefits" under the category "Administrative and Other Expenses."

- Although Dongguan Chengcheng reported in response to a supplemental questionnaire that it used MDF with thicknesses that corresponded to the thickness ranges identified in HTS categories, 4411.21, 4411.13, and 4411.14, Philippine HTS numbers are not categorized according to such thicknesses but according to density. Philippine HTS category 4411.21.0000 is specific to the density of the MDF that Dongguan Chengcheng used.
- Accordingly, the Department should value Dongguan Chengcheng’s MDF using Philippine HTS category 4411.21.0000 rather than Philippine HTS category 4411.29.9000 – “Other, Other” which the Department used in the Preliminary Results without providing any explanation for its selection.

Petitioners

- Dongguan Chengcheng did not cite any record evidence to support its claim that Philippine HTS category 4411.21.0000 is the most suitable HTS category for valuing its MDF, *i.e.*, that its MDF had a density between 0.5 g/cm³ and 0.8 g/cm³. Therefore, the Department has no information to justify changing the surrogate value from Philippine HTS category 4411.29.9000 which was used to value Dongguan Chengcheng’s MDF in the Preliminary Results.

Department’s Position:

We agree with Dongguan Chengcheng that Philippine HTS category 4411.21.0000 - “Fiberboard of a density exceeding 0.5 g/cm³ but not exceeding 0.8 g/cm³ – not mechanically worked or surface covered” is the best available information to value Dongguan Chengcheng’s MDF input. In selecting the best available information for valuing FOP in accordance with section 773(c)(1) of the Act, the Department’s practice is to select, to the extent practicable, SVs which are non-export average values, closest in time with the POR, product-specific, and tax-exclusive.⁷³

In the Preliminary Results of this review, we valued Dongguan Chengcheng’s MDF input using Philippine HTS category 4411.29.9000 – “Other fibreboard of density exceeding 0.5g/cm³ not exceeding 0.8 g/cm³, wtr/ not bonded w/, Other.” Dongguan Chengcheng described its MDF input as “medium density fiberboard, of a density exceeding 0.5 g/cm³ but not exceeding 0.8 g/cm³, 2440 x 1220 mm,”⁷⁴ but later identified “not mechanically worked or surface covered” as the appropriate subclassification for its MDF (HTS category 4411.21.0000). There is no record evidence contradicting the description of the MDF input provided by Dongguan Chengcheng. Thus, we find that the record indicates that Philippine HTS category 4411.21.0000 is the surrogate value on the record that is most specific to Dongguan Chengcheng’s MDF input. Therefore, for the final results of review, we have revised the surrogate value for Dongguan Chengcheng’s MDF by valuing it using Philippine HTS category 4411.21.000.⁷⁵

⁷³ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

⁷⁴ See Dongguan Chengcheng’s May 23, 2013, second supplemental sections C and D response, at Exhibit SQ2-7.

⁷⁵ See Final Surrogate Value Memorandum.

Comment 8: The Appropriate Surrogate Value For Brokerage and Handling

Dongguan Chengcheng

- The source used to calculate an SV for brokerage and handling costs in the Preliminary Results (World Bank's Doing Business 2013: the Philippines ("Doing Business 2013")) is not the best available source to value this service because it does not contain country-wide data or a broad-market average cost for the service, it is based on questionable information, and it is not representative of Dongguan Chengcheng's business experience.
- Doing Business 2013 only covers brokerage and handling costs from one city in the Philippines (i.e., Quezon City). Also, the Department's assumption that the brokerage and handling cost quoted in Doing Business 2013 reflects quotes provided from hundreds of contributors is incorrect.
- Moreover, the majority of the contributors of information used to determine the brokerage and handling cost reported in Doing Business 2013 are law firms and accounting firms with no first-hand experience in freight forwarding and no direct relationship with exporting customers. Only two of the contributors to Doing Business 2013 can be identified as freight forwarders.
- Additionally, the quoted brokerage and handling prices in Doing Business 2013 are based upon a single, hypothetical shipment of merchandise, weight, and value by a company, and the individual results of the survey are not publicly available.
- The objective to calculate the most accurate dumping margins possible is only achieved when the Department's choice of what constitutes the best available information evidences a rational and reasonable relationship to the factor of production it represents.
- Dongguan Chengcheng used Far East American ("FEA"), to obtain information from four freight forwarders in the Philippines, including two contributors to Doing Business 2013 and reconstructed the underlying costs contained in the Doing Business 2013.⁷⁶ The Department should use these price quotes to value brokerage and handling costs.
- If the Department continues to use Doing Business 2013 to value brokerage and handling costs, it should reduce the total brokerage and handling costs identified in Doing Business 2013 by the export letter of credit fees contained in those costs. Doing Business 2013 includes the cost of procuring an export letter of credit in brokerage and handling costs. Dongguan Chengcheng did not use export letters of credit during the POR. Even if it had, letters of credit would be considered bank charges that are captured in the surrogate financial ratios.
- Alternatively, if the Department does not value brokerage and handling costs using the price quotes provided by Dongguan Chengcheng or by using the brokerage and handling costs in Doing Business 2013, excluding export letter of credit fees, it could use the publicly-ranged brokerage and handling costs reported by the Philippine exporter HLD Clark Steel Pipe Co., Inc., ("HLD"), a market economy manufacturer and exporter of oil country tubular goods ("OCTG") that is a respondent in the Department's antidumping duty proceeding on that product. The Department is capable of identifying the types of costs associated with brokerage and handling expenses, such

⁷⁶ See Dongguan Chengcheng SV Information at Exhibit SV-23.

as containerization, movement from truck to container to ship, wharfage, stevedorage, berthage, terminal handling, lashing, drayage, cartage, demurrage, and storage, that were not reported as other expenses, such as inland freight or ocean freight, and were captured in the brokerage and handling value.

Petitioners

- In Certain Polyester Staple Fiber,⁷⁷ the Department faced similar arguments against using Doing Business from the Philippines (i.e., that the brokerage and handling costs in Doing Business are not representative of country-wide averages), and did not reject using Doing Business to calculate brokerage and handling costs.
- The brokerage and handling costs in Doing Business are derived from a large number of contributors. It is reasonable that certain contributing parties (i.e., law firms and accounting firms) provided brokerage and handling data on behalf of their clients or based on their own knowledge.
- The freight forwarder data submitted by Dongguan Chengcheng are unreliable, unverifiable, and not contemporaneous with the POR. This information amounts to price quotes sourced by Dongguan Chengcheng. The Department should reject Dongguan Chengcheng's alternative calculation of brokerage and handling costs relying on the price quotes from several freight forwarders and continue to use Doing Business to value brokerage and handling costs for the final results of this review.

Department's Position:

We disagree with Dongguan Chengcheng, in part. For the reasons provided below, we determined that the brokerage and handling information provided in Doing Business 2013 constitutes the best information on the record for valuing brokerage and handling costs.

Dongguan Chengcheng argues that the brokerage and handling cost in Doing Business 2013 is not a country-wide or broad market average cost because it is based only on shipping from the largest business city in the Philippines. In this regard, we recognize that Doing Business 2013 made several assumptions about the shipment for which it obtained brokerage and handling data in its survey. One of these assumptions is that the business making the shipment is located in the "economy's largest business city."⁷⁸ However, the brokerage and handling cost in Doing Business 2013 is based on the experience of survey contributors located in several cities within the Philippines. This is evident from the list of the contributors providing the brokerage and handling data used to compile Doing Business 2013. The list shows that these contributors are located in at least eight cities within the Philippines.⁷⁹ Accordingly, the brokerage and handling cost in Doing Business 2013 reflects a broader experience than simply the experience of companies located in only one city in the Philippines. Additionally, Dongguan Chengcheng has

⁷⁷ See Certain Polyester Staple Fiber from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 2366 (January 11, 2013) ("Certain Polyester Staple Fiber").

⁷⁸ See id.

⁷⁹ See Dongguan Chengcheng's Post-Prelim SV submission at Exhibit SV-26, which shows that the contributors of data to Doing Business, who agreed to be acknowledged, are located in cities, such as, Makati City, Manila, Taguig City, Bonifacio Global City, Quezon City, Pasig City, Mandaluyong City, and Muntinlupa City.

not demonstrated that the price quotes provided by FEA, discussed below, represent brokerage and handling costs for multiple cities.

Further, we find Dongguan Chengcheng's arguments about the reliability of the brokerage and handling charges in Doing Business 2013 to be unpersuasive. Dongguan Chengcheng claims that the majority of the contributors of the brokerage and handling information used in Doing Business 2013 are law firms and accounting firms that neither have first-hand experience with the freight forwarding business nor do they have a direct relationship with exporting customers.⁸⁰ However, information submitted on the record regarding Doing Business 2013 indicates that the referenced brokerage and handling data were obtained from local freight forwarders, shipping lines, customs brokers, port officials and banks.⁸¹ These entities are likely to have first-hand experience with the freight forwarding business or have direct relationships with exporting customers. Accordingly, we find Dongguan Chengcheng's conclusion that the majority of contributors of brokerage and handling information to Doing Business 2013 have no first-hand experience with the freight forwarding business or a direct relationship with exporting customers to be speculative at best.

Dongguan Chengcheng also argues that the shipment characteristics which survey participants were to assume when providing brokerage and handling costs for Doing Business 2013 are hypothetical which, in its view, raises questions as to the credibility of the information provided. In support of its argument, Dongguan Chengcheng states that its price quotes provide evidence that brokerage and handling charges in the Philippines are on a container basis, irrespective of the weight of the container. However, Doing Business 2013 does not instruct survey participants to provide brokerage and handling expenses on a weight basis; rather it instructs survey participants to provide brokerage and handling expenses for a traded product transported in a dry-cargo, 20-foot full container and notes that they should assume the container weighs 10 tons (i.e. 10,000 kg).⁸² The price quotes that Dongguan Chengcheng supplied for Kerry ATS also note that 10,000 kg is the weight of a dry cargo 20-foot full container, the same shipment characteristics noted in Doing Business 2013.⁸³

Although Dongguan Chengcheng submitted price quotes which it views as superior to the Doing Business 2013 data, we note that our general practice is to not use price quotes to value factors of production if other publicly available data are on the record.⁸⁴ There are a number of reasons for this practice, including the fact that the price quotes generally do not represent broad ranges of data, and the Department does not know the conditions under which these were solicited and

⁸⁰ See Dongguan Chengcheng SV Information at Exhibit SV-26.

⁸¹ See "Trading Across Borders in the Philippines Survey Results" in Doing Business, provided in Attachment 4 (page 87) of Petitioners' May 9, 2013 SV submission. We note that Petitioners submitted Doing Business 2012 to value freight and brokerage and handling, while we used Doing Business 2013 in the preliminary results. However, the methodology for calculating brokerage and handling in Doing Business 2012 is the same as Doing Business 2013.

⁸² See "Trading Across Borders Methodology" page 1 of 2 in Doing Business, provided in Attachment 4 of Petitioners' May 9, 2013 SV submission.

⁸³ See Exhibit SV-23 of Dongguan Chengcheng's March 18, 2014 SV submission to the Department.

⁸⁴ See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 74 FR 47191 (September 15, 2009) and accompanying Issues and Decision Memorandum at Comment 7B.

whether or not these were self-selected from a broader range of quotes.⁸⁵ The brokerage and handling price quotes obtained from Philippine freight forwarders by an employee of FEA that Dongguan Chengcheng placed on the record appear to have been obtained exclusively by, and intended for, FEA⁸⁶ in direct response to a request for such prices. Without access to all of the information on how the price quotes were obtained (including any negotiations or agreed upon adjustments), it is impossible to confirm that quotes reflect a typical broad market average cost. As a general policy, the Department must be cautious in using selective price quotes.⁸⁷ A party could, for example, receive 10 quotes, and provide the Department with only the two or three it prefers. Further, a party could also potentially influence the quotes it receives from a company. There are many unknowns that accompany FEA's price quotes; thus the Department does not favor the use of such information if other publicly available data are on the record

In addition, these price quotes do not meet the criteria of public availability upon which the Department has historically relied when choosing surrogate values. Use of publically available surrogate values lessens the possibility of manipulation of the values which could occur with values being provided specifically for use in trade remedy cases.⁸⁸ Contrary to the aforementioned price quotes, Doing Business 2013 provides publicly available brokerage and handling information which was obtained by surveying local freight forwarders, shipping lines, customs brokers, port officials and banks, located in different cities within the Philippines. Thus, the brokerage and handling cost reported in Doing Business 2013 was not prepared for one particular company but represents an average cost, which is preferred by the Department.

What is more, we have not relied upon the alternative surrogate value for brokerage and handling suggested by Dongguan Chengcheng. We do not find the publicly-ranged brokerage and handling expenses specific to HLD, a Philippine respondent in the OCTG investigation, to be the best information on the record for valuing brokerage and handling services because this company-specific cost is not a broad market average. As noted above, the brokerage and handling cost in Doing Business 2013 is based on information from multiple sources and thus it is an average cost.

We agree with Dongguan Chengcheng that the cost of obtaining letters of credit should be excluded from the total brokerage and handling costs reported in Doing Business 2013. Dongguan Chengcheng provided evidence from the World Bank indicating that the cost of obtaining letters of credit is included in the cost of brokerage and handling.⁸⁹ Specifically, respondents obtained information from the World Bank indicating that the total cost of brokerage and handling in the Philippines provided in Doing Business 2013 includes an average cost of

⁸⁵ Id.

⁸⁶ See Dongguan Chengcheng's Post-Prelim SV submission at Exhibit SV-23 which includes a letter from Enrie C. Balois, with Expeditors, to Mr. Greg Simon, with FEA, with price quotes for 20-foot, 40-foot, and 40-foot HC containers.

⁸⁷ See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 26712 (May 9, 2014) and accompanying Issues and Decision Memorandum at Comment 4.

⁸⁸ See e.g., Certain Cased Pencils from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 71 FR 38366 (July 6, 2006).

⁸⁹ See Dongguan Chengcheng SV Information at Exhibit SV at SV-21.

\$50.00 for obtaining a letter of credit.⁹⁰ We found no evidence to suggest that Dongguan Chengcheng obtained letters of credit in the process of exporting the merchandise under consideration. We note that in other recent cases, the Department has excluded the cost of obtaining letters of credit from the total cost of brokerage and handling.⁹¹ Accordingly, for purposes of the final results, we revised the calculation of brokerage and handling by deducting the cost of \$50 for obtaining a letter of credit from the total cost of brokerage and handling provided in Doing Business 2013.⁹²

Comment 9: The Appropriate Surrogate Value For Paint

Dongguan Chengcheng

- The Department should value Dongguan Chengcheng's paint using Philippine HTS category 3208.90.90.09.
- While Dongguan Chengcheng reported earlier in this review that it used paint classified under Philippine HTS category 3208.90.50.00 (undercoats and priming paints), it later realized that this statement was a mistake because it does not use undercoats, priming paints, or any kind of varnishes. Rather, it uses general common paint.
- Since there are no Philippine HTS categories specific to the paint it uses, the Department should value the paint using Philippine HTS category 3208.90.90.09 (other, other).

Petitioners

- Dongguan Chengcheng did not cite any record evidence to support its claim that it consumed the type of paint that would be imported under Philippine HTS category 3208.90.90.09. Therefore, the Department has no information to justify changing the surrogate value from Philippine HTS category 3208.90.50.00 which was used to value Dongguan Chengcheng's paint in the Preliminary Results.

Department's Position:

We agree with Dongguan Chengcheng. In selecting the best available information for valuing FOP in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, closest in time with the POR, product-specific, and tax-exclusive.⁹³ In its submission dated July 30, 2013, Dongguan Chengcheng clarified that the types of paint that it uses in the production of subject merchandise are not undercoating or priming paint which are classified under the Philippine HTS number 3208.90.5000. There is no information on the record calling this clarification into question.

⁹⁰ Id.

⁹¹ See Baroque Timber Indus. (Zongshan) Co. v. United States, No. 12-00007, Final Results of Redetermination Pursuant to Court Order at 24, ECF No. 132 (Nov. 14, 2013). See also Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review: 2011-2012, 79 FR 26712 (May 9, 2014) and accompanying Issues and Decision Memorandum at Comment 4.

⁹² See Dongguan Chengcheng's Post-Prelim SV submission at Exhibit SV at SV-21, and Final SV Memorandum.

⁹³ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

Therefore, we have used Philippine HTS category 3208.90.90.09 to value Dongguan Chengcheng's paint input.

Comment 10: The Appropriate Surrogate Value for Electricity

Dongguan Chengcheng

- The Department should value electricity with an SV based on electricity rates from either National Power Corporation (“NPC”) or the Manila Electric Company (“Meralco”), instead of Doing Business in Camarines Sur (“DB Camarines Sur”).
- The Department relied on NPC and Meralco to value electricity in Plywood Preliminary Results, Hangers Preliminary Results, Activated Carbon, and Pencils.⁹⁴
- The uniform resource locator (“URL”) to the DB Camarines Sur data is no longer working, and the data appear to be absent from the website. This suggests that the electricity rates from DB Camarines Sur are no longer publicly available.
- The Department previously found that it would not consider data to be publically available when the source could not be accessed publicly at the decision stage of a segment of a proceeding.⁹⁵
- The DB Camarines Sur data were found to be contemporaneous with the POR because the data were effective as of 2012; however, this finding is suspect because the effective date was based on the webpage copyright date, and the DB Camarines Sur rates have remained unchanged since 2009. In contrast, Meralco's and NPC's electricity rates change from month to month and are effective as of that month, making them more reliable than the DB Camarines Sur data.
- Meralco and NPC provide broader coverage and more detailed monthly electricity rates than DB Camarines Sur.
- The Meralco and NPC electricity rates specifically do not include taxes or duties (which the Department typically does not include in surrogate values). DB Camarines Sur does not specify whether its electricity rates include taxes or duties.
- The DB Camarines Sur data are a “with demand” rate on a per kW basis, rather than a kWh rate. A “with demand” charge is generally not an economical electrical rate for

⁹⁴ Dongguan Chengcheng cites Hardwood and Decorative Plywood from the People's Republic of China: Antidumping Duty Investigation, 78 FR 25946 (May 3, 2013) (“Plywood Preliminary Results”) (changed in Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013), when the Department no longer relied on Philippines as the surrogate country); Steel Wire Garment Hangers from the People's Republic of China: Antidumping Duty Administrative Review; 2010-2011, 77 FR 66952 (November 8, 2012) (“Hangers Preliminary Results”) and accompanying Preliminary Decision Memorandum at 19, unchanged in Steel Wire Garment Hangers From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011, 78 FR 28803 (May 16, 2013) (“Hangers Final Results”); Certain Activated Carbon Final Results of 2010-2011 Antidumping Duty Administrative Review, 77 FR 67337 (November 9, 2012) (“Activated Carbon”); Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part; 2010-2011, 78 FR 42932 (July 18, 2013) (“Pencils”) and accompanying Issues and Decision Memorandum at 6.

⁹⁵ Dongguan Chengcheng cites Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, 2011-2012, 78 FR 21101 (April 9, 2013) (“Threaded Rod Preliminary Results”); Certain Steel Nails from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review, 2010-2011, 78 FR 16651 (March 18, 2013) (“Steel Nails”) and accompanying Issues and Decision Memorandum at Comment 1.

industries that use varying amounts of electricity throughout the day or month, as their demand rate will be based on its highest demand despite not continually using that level throughout the billing period.

Petitioners

- In Chlorinated Isos,⁹⁶ the Department recently found that electricity rates from NPC and Meralco do not represent the best available information with which to value electricity. Specifically, the Department found that the NPC data do not include rates for industrial users, so they are less specific than the DB Camarines Sur data or the Meralco data, which do include industrial user rates. The Department also found that while the Meralco data contain more detailed industrial rate categories than DB Camarines Sur, there was meaningful variability in the rates between the categories and no record information to match a precise rate to the experience of the respondent.
- As in Chlorinated Isos, despite the precision of the Meralco rates, the record in this review does not contain sufficient information to match a precise rate to the experience of the respondent.
- The Department should continue to find that the DB Camarines Sur electricity rates represent the best available information with which to value electricity, when compared to the NPC and Meralco electricity rates.

Department's Position:

We agree with Petitioners, and have continued to value Dongguan Chengcheng's electricity input with information derived from DB Camarines Sur. In selecting the best available information for valuing FOP in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, closest in time with the POR, product-specific, and tax-exclusive.⁹⁷ We find the DB Camarines Sur electricity rates to be the best available information for valuing Dongguan Chengcheng's electricity input for the reasons stated below.

First, the Department has previously found that "utility rates represent a current rate as indicated by the effective date listed for each of the rates provided."⁹⁸ The DB Camarines Sur electricity rates were effective beginning in 2009, and the fact that these rates appeared on a webpage with a copyright date of 2012 indicates that these rates are still in effect. Further, there is no record

⁹⁶ Petitioner cites Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 4875 (January 30, 2014) ("Chlorinated Isos") and accompanying Issues and Decision Memorandum at Comment 2E.

⁹⁷ See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

⁹⁸ See Chlorinated Isos and accompanying Issues and Decision Memorandum at Comment 2E (finding that the electricity rates from DB Camarines Sur "likely were, absent evidence to the contrary, effective beginning in 2009, and thus continued to represent the current rate during the POR," and that, "because the effective date of these rates was set prior to the POR, and these rates have remained unchanged in prior proceedings, we continue to find them to be reliable and conservatively valued as contemporaneous rates without any adjustment for inflation").

evidence indicating that the rates have been changed recently. Thus, we find that the DB Camarines Sur electricity rates are contemporaneous with the POR.

Second, the DB Camarines Sur electricity rates are specific to the input being valued because they pertain to industrial consumption.⁹⁹ The NPC data do not include specific rates for industrial users. While the Meralco data pertain to industrial users, the Meralco data consist of multiple industrial sub-classifications that have meaningful rate differences. There is not enough information on the record to determine which Meralco rate category applies to Dongguan Chengcheng. In contrast, the DB Camarines Sur data consist of a single industrial user rate for two cities in the Philippines, Naga City and Iriga City. Thus, the DB Camarines Sur publication allows the Department to calculate an average electricity rate (average market rates are preferred by the Department)¹⁰⁰ without introducing possible distortions that could occur from using industrial rate sub-classifications that should not be applied to Dongguan Chengcheng.

Additionally, we do not believe we should reject the DB Camarines Sur electricity rates in favor of NPC or Meralco data based on a lack of information regarding whether DB Camarines Sur electricity rates include taxes. Record evidence does not indicate that the DB Camarines Sur electricity rates include taxes or duties.¹⁰¹

Further, we disagree with Dongguan Chengcheng's arguments that the DB Camarines Sur data are listed on a "per kW" basis, rather than "per kWh," and that a "with demand" rate is inappropriate to use as an electricity SV in this particular case. The DB Camarines Sur source lists the electricity rates for both cities as "rate per kWh."¹⁰² While the Naga City rate for industrial users is identified as "with demand," this is the only industrial rate shown for Naga City, which suggests that all industrial users pay this type of rate. We also note that the Iriga City rate specifies one industrial rate, which is not listed as "with demand."

The position outlined above is consistent with the one recently taken by the Department in Chlorinated Isos.¹⁰³ In that case, the Department found that data from NPC and Meralco do not represent the best available information for valuing electricity when compared to data from DB Camarines Sur.¹⁰⁴ In Chlorinated Isos, the Department stated that NPC data were inferior to Meralco and DB Camarines Sur data because they do not include specific rates for industrial users.¹⁰⁵ The Department further stated in Chlorinated Isos that the Meralco data were inferior to the DB Camarines Sur data. Specifically, the Department noted that although the Meralco data contained rates for specific industrial categories, there was meaningful variability between the rates for different categories, and the record contained insufficient information to determine into

⁹⁹ See Preliminary Results and accompanying Preliminary Decision Memorandum at 23.

¹⁰⁰ See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012, 79 FR 19053 (April 7, 2014) and accompanying Issues and Decision Memorandum at Comment III ("it is the Department's practice to choose SVs that are specific to the input, representative of broad market averages ...).

¹⁰¹ See Preliminary Results and accompanying Preliminary Decision Memorandum at 23.

¹⁰² See Petitioners' "Surrogate Country Comments And Submission Of Publicly Available Information To Value Factors Of Production," dated May 9, 2013, at Attachment 3.

¹⁰³ See Petitioners' NSR Rebuttal Brief at 6-8.

¹⁰⁴ See Chlorinated Isos and accompanying Issues and Decision Memorandum at Comment 2E.

¹⁰⁵ Id.

which rate category each respondent company should be classified.¹⁰⁶ The same is true of the present review.

In support of its argument that the Department should value electricity with the NPC and Meralco data, Dongguan Chengcheng cites Plywood Preliminary Results, Hangers Preliminary Results, Activated Carbon, and Pencils. In Plywood Preliminary Results and Hangers Preliminary Results, the Department valued electricity with rates for residential and industrial customers obtained from Meralco, finding that these data represented publicly available, broad-market averages.¹⁰⁷ In Activated Carbon and Pencils, the Department valued electricity using NPC data.¹⁰⁸ However, there is no indication in any of these cases that the Department compared electricity rates from NPC or Meralco to electricity rates from DB Camarines Sur, as it did in Chlorinated Isos. Simply because the Department valued an input with a certain surrogate value source in past proceedings does not mean it will find that source to be the best available information for valuing that input in other proceedings where the record in those proceedings contains other potential surrogate value sources. Each proceeding stands on its own based on the record evidence in that proceeding. The Department must evaluate all information contained on the administrative record of each proceeding in order to determine the “best available information” with which to value a respondent’s inputs. In this review, for the reasons explained above, we determined that electricity rates from DB Camarines Sur constitute the “best available information” for valuing Dongguan Chengcheng’s electricity consumption.

Dongguan Chengcheng further argues that the DB Camarines Sur electricity data are no longer publicly available and that the Department has declined to use surrogate value sources in the past when they were not publicly available at the time that the Department makes its decisions in a particular segment of a proceeding.¹⁰⁹ In Steel Nails the Department declined to use Ukraine as the surrogate country for the final determination because no Ukrainian financial statements were determined to be publicly available.¹¹⁰ The Department found that the only Ukrainian financial statements on the record were not publicly available because record evidence indicated that the statements were only available to company shareholders and the company forbade the public use of the statements.¹¹¹ The Department also noted that the URL it previously used to corroborate the public availability of the statements was non-functional.¹¹² However, in Steel Nails, multiple circumstances, not simply the non-functional URL, contributed to the Department’s determination that the Ukrainian financial statements were not publicly available. In addition, the Department faced the same issue concerning the public availability of the DB Camarines Sur data in Multilayered Wood Flooring, finding that the data remained publicly available and usable

¹⁰⁶ Id.

¹⁰⁷ See Plywood Preliminary Results and accompanying Preliminary Decision Memorandum at 27; see also Hangers Preliminary Results and accompanying Preliminary Decision Memorandum at 19 (unchanged in Hangers from the PRC Final Results).

¹⁰⁸ See Activated Carbon and accompanying Issues and Decision Memorandum at Comment III.A; see also Pencils.

¹⁰⁹ See Dongguan Chengcheng Case Brief, citing Threaded Rod and Steel Nails and accompanying Issues and Decision Memorandum at Comment 1. Dongguan Chengcheng also cites the Threaded Rod preliminary surrogate value memorandum; however, because this memorandum was not submitted to the record of the current proceeding, we have not considered it.

¹¹⁰ See Steel Nails and accompanying Issues and Decision Memorandum at Comment 1 (In addition to one unusable Ukrainian financial statement, the record contained two usable Thai financial statements).

¹¹¹ Id.

¹¹² Id.

for purposes of that review when the data had already been placed on the record, despite no longer appearing at the specified URL.¹¹³ In the present case, as in Multilayered Wood Flooring, the DB Camarines Sur data were publicly available at the time it was printed for placement on the record of this review, so we have continued to consider it. In addition, although Dongguan Chengcheng cited Threaded Rod Preliminary Results to support its argument, the preliminary results for that case does not contain any discussion of the Department's use of data obtained from non-functional URLs. Hence, we find Dongguan Chengcheng's arguments regarding the public availability of DB Camarines Sur data to be unpersuasive.

Comment 11: The Appropriate Surrogate Financial Statements for the NSR

Petitioners

- The Department should reject the 2012 financial statement of Insular Rattan & Native Products Corporation (“Insular Rattan”) for purposes of calculating financial ratios as its statement is unreliable because it failed to disclose its annual income tax liability as required under Philippine accounting rules. The same financial disclosure flaw has resulted in two remand proceedings relating to prior administrative reviews results leading to the Department's determination not to use Insular Rattan's financial statements when calculating surrogate financial ratios.
- Additionally, the financial statement of Betis Crafts, Inc. (“Betis Crafts”) should be rejected for purposes of calculating surrogate financial ratios as record evidence demonstrates that it received a subsidy in the form of a below-market rate loan from the Development Bank of the Philippines which the Department has previously identified as part of a countervailable subsidy program.¹¹⁴

Dongguan Chengcheng

- The Department has a practice and policy of relying on the most contemporaneous financial statements of producers of identical or comparable merchandise to subject merchandise to calculate financial ratios. In the Preliminary Results, the Department had no contemporaneous financial statements to choose from and instead relied on financial statements covering a period closest in time to the POR which were from 2011. Since the record now contains seven 2012 financial statements from producers of identical merchandise, these seven statements should be used to calculate financial ratios as they constitute the best available information to value the financial ratios.¹¹⁵

¹¹³ See Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review: 2011-2012, 79 FR 26712 (May 9, 2014) (“Multilayered Wood Flooring”) (“However, contrary to Nails Final Results, where the public availability of the source data themselves were challenged, in the instant case, the source data obtained from the Camarines Sur web site was clearly publicly available at least as recently as May 3, 2013, the date on which it was printed for placement on the record of this review. Whether it continues to be publicly available now may be pertinent to whether it can serve as an appropriate source in subsequent segments; it is irrelevant for the purposes of the instant review, and we continue to find it to be reliable, publicly available information SV information for the instant review” (internal citations omitted)).

¹¹⁴ See Preliminary Affirmative Countervailing Duty Determinations; Certain Textile Mill Products and Apparel From the Philippines, 50 FR 1607 (January 10, 1985) (“Certain Textile Products from the Philippines Preliminary Determination”).

¹¹⁵ The seven new statements are: Berbenwood Industries Inc. (“Berbenwood”), Betis Crafts Inc. (“Betis Crafts”), Casa Cebuana Inc. (“Casa Cebuana”), Insular Rattan & Native Products Corp. (“Insular Rattan”), JLQ, Las Palmas, and Wicker & Vine, Inc. (“Wicker & Vine”).

- The countervailable loan in Certain Textile Products from the Philippines Preliminary Determination, the case Petitioners cited, is materially different from the information in the Betis Crafts financial statement. Petitioners have misconstrued the finding in that case, which involved an interest free loan from the Development Bank of the Philippines, by applying it to a loan that Betis Crafts received from Development Bank of the Philippines with a slightly lower interest rate than the rate on its other loans. This is not comparable to an interest-free loan. Further, the situation in Certain Textile Products from the Philippines Preliminary Determination, involved equity infusions, which is very different from Betis Craft’s situation.
- Petitioners’ argument to reject the financial statement of Insular Rattan for purposes of calculating the financial ratios does not have merit because the income tax expense is not part of the Department’s calculations. Also, Insular Rattan’s financial statement was audited by an independent auditor who affirmed that the statement was in conformity with the Philippine Financial Reporting Standards.

Department’s Position:

When selecting financial statements for purposes of calculating surrogate financial ratios, the Department’s policy is to use data from one or more market economy surrogate companies based on the “specificity, contemporaneity, and quality of the data.”¹¹⁶ Section 773(c)(1) of the Act states that “the valuation of the factors of production shall be based on the best available information regarding the values of such factors...” In accordance with 19 CFR 351.408(c)(4), the Department normally will use public information gathered from producers of identical or comparable merchandise in the surrogate country to value manufacturing overhead, general expenses, and profit.¹¹⁷ In determining the suitability of surrogate values, the Department considers the available evidence with respect to the particular facts of each case and evaluates the suitability of each source on a case-by-case basis.¹¹⁸ Accordingly, when examining the merits of financial statements on the record, the Department does not have an established hierarchy that automatically gives certain characteristics more weight than others. Rather, the Department must weigh available information with respect to each situation and make a product- and case-specific decision as to what constitutes the “best” available information. Furthermore, the CIT has recognized the Department’s discretion in selecting the best surrogate values on the record.¹¹⁹

¹¹⁶ See, e.g., Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances, 71 FR 29303 (May 22, 2006) (“Diamond Sawblades LTFV Final”) and accompanying IDM at Comment 1.

¹¹⁷ See Third Administrative Review of Frozen Warmwater Shrimp From the People’s Republic of China: Final Results and Partial Recession of Antidumping Duty Administrative Review, 74 FR 46565 (September 10, 2009) (“Frozen Shrimp China”) and accompanying IDM at Comment 1.

¹¹⁸ See Certain Preserved Mushrooms from the People’s Republic of China: Final Results and Final Partial Recession of the Sixth Administrative Review, 71 FR 40477 (July 17, 2006) (“Mushrooms”) and accompanying IDM at Comment 1; see also Freshwater Crawfish Tail Meat from the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Recession of Antidumping Duty Administrative Review, 67 FR 19546 (April 22, 2002) (“Crawfish”) and accompanying IDM at Comment 2.

¹¹⁹ The CIT has upheld its previous determinations that “when Commerce is faced with the decision to choose between two reasonable alternatives and one alternative is favored over the other in their eyes, then they have the discretion to choose accordingly.” See FMC Corp.

In calculating financial ratios for the Preliminary Results, the Department considered 12 financial statements of Philippine companies placed on the record by interested parties. The Department preliminarily calculated financial ratios using the 2011 financial statements from JLQ International Inc. (“JLQ”), Las Palmas Furniture Incorporated (“Las Palmas”), APY Cane Inc. (“APY”), and Stonesets. Intl. Inc. (“Stonesets”).¹²⁰ Following the publication of the Preliminary Results, interested parties placed an additional seven financial statements on the record for consideration: Berbenwood Industries, Betis Crafts, Casa Cebuana, Insular Rattan, JLQ, Las Palmas, and Wicker & Vine.¹²¹ These seven financial statements cover calendar year 2012. After considering the comments by interested parties in their case and rebuttal briefs, along with the new financial statements placed on the record, the Department has modified the financial ratios.

For the final results, the Department calculated the surrogate financial ratios for Dongguan Chengcheng using the 2012 financial statements of Berbenwood Industries, Betis Crafts, Casa Cebuana, JLQ, Las Palmas, and Wicker & Vine. We agree with respondent that the contemporaneity of financial statements is one of the key elements the Department considers in selecting surrogate financial statements. It is the Department’s practice to reject less contemporaneous financial statements when usable more contemporaneous statements are available.¹²² Therefore, we have not used the 2011 financial statements of JLQ, Las Palmas, APY and Stonesets that were used in the Preliminary Results for the final results of this NSR.

With respect to Petitioners’ arguments that we reject the financial statement of Betis Crafts because it contains references to a countervailable subsidy program, the Department disagrees with Petitioners’ classification of a loan from the Development Bank of the Philippines as a countervailable subsidy program. The investigation of this loan program was never finalized—no countervailing duty order was published, and there was no application of countervailing duties.¹²³ The Department has not previously countervailed a loan program from the Development Bank of the Philippines. Additionally, the Department has previously found no reason that a bank loan from the Development Bank of Philippines should make the statement of Betis Crafts unusable.¹²⁴ Therefore, since Betis Crafts produces identical merchandise and its financial statement is contemporaneous and free of countervailing subsidies, the Department has determined to use its financial statement to calculate surrogate financial ratios.

¹²⁰ See Memorandum regarding, “Decision Memorandum for Preliminary Results of Antidumping Duty Administrative and New Shipper Review: Wooden Bedroom Furniture from the People's Republic of China,” dated February 18, 2014.

¹²¹ See Letter regarding, “Wooden Bedroom Furniture from the People's Republic of China - Surrogate Values for Final Results,” dated March 18, 2014, and letter regarding, “Wooden Bedroom Furniture From The People's Republic Of China: Petitioners' Post-Preliminary Results Rebuttal Surrogate Value Information,” dated March 28, 2014.

¹²² See e.g. Multilayered Wood Flooring from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 76 FR 64318 (October 18, 2011) and accompanying IDM at 12.

¹²³ See Termination of Countervailing Duty Investigations; Certain Textile Mill Products and Apparel From Indonesia, the Philippines, and Turkey, 50 FR 15208 (April 17, 1985).

¹²⁴ See Wooden Bedroom Furniture From the People Republic of China: Final Results and Final Rescission in Part, 76 FR 49729 (August 1, 2011) and accompanying IDM at Comment 19 (submitted in Dongguan Chengcheng Final SVs at Exhibit 15).

We agree with Petitioners' argument that the Department should exclude Insular Rattan's financial statement from its financial ratio calculations because the evidence on the record of this new shipper review is consistent with the information considered in two redeterminations where the Department rejected Insular Rattan's financial statement pursuant to U.S. Court of International Trade ("CIT") decisions. The evidence in each proceeding, including this new shipper review, is the same, *i.e.*, Insular Rattan failed to disclose its annual income tax expense in its financial statement. In Dongguan Sunrise Furniture Co. v. United States, 931 F. Supp. 2d 1346 (CIT 2013) and Home Meridian Int'l, Inc. v. United States, Court No. 11-00325, 2013 WL 6017446 (CIT Nov. 14, 2013), the CIT sustained the Department's exclusion of Insular Rattan's 2008 and 2009 financial statement from the financial ratio calculations in the respective reviews underlying the litigation. Therefore, for the final results, the Department is excluding Insular Rattan's financial statements from its financial ratio calculations.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these reviews in the Federal Register.

Agree ✓ Disagree _____

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

25 AUGUST 2014
Date