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March 2, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Preliminary Results of the 2014-2015 Antidumping Duty Administrative Review: Uncovered Innerspring Units from the People's Republic of China

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Summary

The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty ("AD") order on uncovered innerspring units from the People's Republic of China ("PRC"). The period of review ("POR") is February 1, 2014, through January 31, 2015. The Department preliminarily determines that Macao Commercial and Industrial Spring Mattress Manufacturer ("Macao Commercial") had no reviewable shipments of subject merchandise during the POR. We also preliminarily determine that East Grace Corporation ("East Grace") has not established its entitlement to separate rate status and, therefore, is being treated as part of the PRC-wide entity.

If we adopt these preliminary results in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. Unless extended, we intend to issue final results no later than 120 days from the date of publication of our preliminary results, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act").

Case History

On February 19, 2009, the Department published in the *Federal Register* an antidumping duty order on uncovered innerspring units from the PRC.[1] On June 30, 2014, the Department received a request from Petitioner[2] to conduct an administrative review of East Grace and Macao Commercial.[3] On April 3, 2015, the Department initiated this review based on these review requests.[4] On May 11, 2015, the Department issued its standard antidumping duty (AD) questionnaires to East Grace and Macao Commercial.[5]

On June 1, 2015, Macao Commercial submitted a certified response to the Department's standard AD questionnaire, stating it made no shipments of PRC-origin innersprings to the United Stated during the POR.[6] Between June 6, 2015 and December 24, 2015, the Department issued supplemental questionnaires to Macao Commercial, to which Macao Commercial responded in a timely manner. The Department required Macao Commercial to resubmit several of its responses due to over bracketing.[7] On January 25 and 26, 2016, Macao Commercial resubmitted amended responses to their supplemental questionnaire submissions.[8] East Grace did not respond to the Department's standard AD questionnaire.[9]

Scope of the Order

The merchandise subject to the order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.*, twin, twin long, full, full long, queen, California king and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

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1 *See Notice of Antidumping Duty Order: Uncovered Innerspring Units from the People's Republic of China*, 74 FR 7661 (February 19, 2009) ("*Order*").
2 The Petitioner is Leggett & Platt Inc. (hereinafter "Petitioner").
3 *See* Request for Antidumping Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China, dated February 27, 2015.
4 *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 18202 (April 3, 2015) ("*Initiation Notice*"). We note that the *Initiation Notice* appeared to identify "Macao Commercial" and "Industrial Spring Mattress Manufacturer" as two separate companies. However, the name of the single company for which a review was requested was actually "Macao Commercial and Industrial Spring Mattress Manufacturer," and we clarify now that this is the correct name of the company under review.
5 *See* Letter to East Grace Corporation, dated May 11, 2015, and Letter to Macao Commercial and Industrial Spring Mattress Manufacturer, dated May 11, 2015.
6 *See* Macao Commercial's Response, dated June 1, 2015.
7 *See*, *e.g.*, the Department's letter to Macao Commercial, dated January 21, 2016.
8 *See* Macao Commercial's Amended 3rd Supplemental QR submission, dated January 25, 2016; *see also* Macao Commercial's Amended 4th Supplemental QR submission, dated January 25, 2016.
9 *See* Letter to East Grace Corporation, dated May 11, 2015, and Department's Delivery Notification, dated June 1, 2015.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring.

Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a "pocket" or "sock" of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 9404.29.9005, 9404.29.9011, 7326.20.0070, 7320.20.5010, 7320.90.5010, or 7326.20.0071 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Status

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a non-market economy ("NME") country shall remain in effect until revoked by the Department. The Department considers the PRC to be an NME country.[10] Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Companies That Did Not Establish Their Eligibility for a Separate Rate

There is a rebuttable presumption that all companies within the PRC are subject to government control, and, thus, should be assessed a single antidumping duty rate.[11] In the *Initiation Notice*, the Department notified parties of the application process by which exporters may obtain separate rates.[12] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rule, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*, as amplified by *Silicon Carbide*.[13] However, if the Department

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[10] *See, e.g., Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2012-2013*, 79 FR 43395 (July 25, 2014) unchanged in in *Certain Polyester Staple Fiber from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012–2013*, 80 FR 4542 (January 28, 2015).

[11] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

[12] *See Initiation Notice*, 80 FR at 18202-03.

[13] *See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR

determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.[14]

In our *Initiation Notice*, we also stated, "{f}or exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents."[15] East Grace was selected as a mandatory respondent in the instant review, but East Grace failed to respond to the Department's AD questionnaire, and East Grace did not submit a no-shipments certification. Therefore, we find that East Grace is no longer eligible for separate rate status and is considered part of the PRC-wide entity.

In light of these facts, and consistent with the Department's current practice regarding conditional review of the PRC-wide entity,[16] we preliminarily determine that East Grace remains part of the PRC-wide entity. Under this practice, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change. Therefore, if our determination is unchanged in the final results, East Grace's entries of subject merchandise will be liquidated at the rate previously established for the PRC-wide entity. The rate applicable to the PRC-wide entity is 234.51 percent.

<u>Preliminary Determination of No Shipments</u>

As discussed in the Case History section above, Macao Commercial stated in a certified questionnaire response that it made no shipments of innerspring units of PRC origin to the United States. The Department sent inquiries to U.S. Customs and Border Protection ("CBP") to confirm the no shipments response received from Macao Commercial.[17] On February 22, 2016, the Department placed entry packages it received from CBP, for entries made by Macao Commercial, on the record of this proceeding.[18] The information in the CBP entry packages did not contradict Macao Commercial's claim that the entries in question were produced in Macao and exported to the United States.[19] Furthermore, the current information on the record obtained from Macao Commercial's responses, including its reported production and sales processes, as well as shipment documentation, do not contradict Macao Commercial's no shipment claim.

20588 (May 6, 1991) ("*Sparklers*") and *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*").

[14] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

[15] *See Initiation Notice*, 80 FR at 18203.

[16] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

[17] *See* Memorandum to the File, through Paul Walker, Program Manager, Office V, Enforcement and Compliance, from Kenneth Hawkins, Case Analyst, Office V, Enforcement and Compliance, and attached Customs No-Shipments Inquiry, dated concurrently with this Preliminary Determination Memorandum.

[18] *See* Macao Commercial's Entry Package.

[19] *Id*.

As we find that Macao Commercial had no entries of PRC-origin innersprings, we preliminarily determine that Macao Commercial did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with the Department's assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to Macao Commercial and issue appropriate instructions to CBP based on the final results of the review.[20] If the Department continues to determine in the final results of this review that Macao Commercial had no entries of PRC-origin innersprings during the POR, we intend to instruct CBP to liquidate Macao Commercial's entries without regard to antidumping duties.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review within 120 days of publication of these preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

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Agree Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

2 MARCH 2016

Date

[20] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).