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Changed Circumstances Review
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February 1, 2017

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Multilayered Wood Flooring from the People's Republic of China: Preliminary Decision Memorandum of Antidumping and Countervailing Duty Changed Circumstances Reviews

Summary

The Department of Commerce (the "Department") received a request for expedited changed circumstances reviews ("CCR") of the antidumping duty ("AD") and countervailing duty ("CVD") orders on multilayered wood flooring ("wood flooring") from the People's Republic of China ("PRC"),[1] submitted by Yihua Lifestyle Technology Co., Ltd. ("Yihua Tech").[2] Yihua Tech requested that the Department conduct an expedited CCR to establish Yihua Tech as the successor-in-interest to Guangdong Yihua Timber Industry Co., Ltd. ("Yihua Timber") for purposes of the AD and CVD orders on wood flooring. As a result of our analysis, we recommend that the Department initiate the requested reviews and preliminarily determine that Yihua Tech is the successor-in-interest to Yihua Timber.

Background

On July 28, 2016, Yihua Tech requested that the Department initiate CCRs and determine that it is the successor-in-interest to Yihua Timber for purposes of determining AD and CVD liabilities. On September 9, 2016, the Department requested from Yihua Tech additional information in

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[1] *See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011); *see also Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order*, 76 FR 76693 (December 8, 2011, as amended, *Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (*Orders*).
[2] *See* Letter from Yihua Tech to the Secretary of Commerce "Wooden Bedroom Furniture from the People's Republic of China (AD) and Multilayered Wood Flooring from the People's Republic of China (AD/CVD); Request for Changed Circumstances Review," dated July 28, 2016 ("CCR Request").

order to determine whether to initiate the requested CCRs.[3] The Department further stated that it would reconsider Yihua Tech's CCR Request once amended to include the additional information requested by the Department.[4] On November 18, 2016, Yihua Tech submitted an amendment to its CCR Request, which included the additional information requested by the Department.[5] On December 23, 2016, the Department determined that additional time was necessary to consider Yihua Tech's CCR Request.[6] Therefore, in accordance with 19 CFR 351.302(b), the Department extended the time period for determining whether to initiate the requested changed circumstances reviews by an additional 30 days, until February 1, 2017. The Department received no comments on Yihua Tech's CCR Request.

Scope of the Orders

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

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

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[3] *See* Letter from Howard Smith, Program Manager, AD/CVD Operations, Office IV, Enforcement & Compliance to Yihua Tech dated September 9, 2016.
[4] *Id*.
[5] *See* Letter from Yihua Tech to the Secretary of Commerce "Wooden Bedroom Furniture from the People's Republic of China (AD) and Multilayered Wood Flooring from the People's Republic of China (AD/CVD); Amendment to Request for Changed Circumstances Review," dated November 18, 2016 ("Amendment to CCR Request").
[6] *See* Letter from Abdelali Elouaradia, Office Director, Office IV, AD/CVD Operations "Wooden Bedroom Furniture from the People's Republic of China (Antidumping Duty Order) and Multilayered Wood Flooring from the People's Republic of China (Antidumping Duty and Countervailing Duty Orders): Request for a Changed Circumstances Review," dated December 23, 2016.

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

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (e.g., circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

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

Analysis

Yihua Tech claims that no substantive changes, other than the change of name and a minor modification to the company's business scope, have occurred with respect to Yihua Timber, and, thus, it should be treated as the successor-in-interest to Yihua Timber. Yihua Tech claims that there have been no material changes to the management, production facilities, supplier relationships, or customer base (criteria which the Department examines in its AD CCR successor-in-interest analysis) or operations, ownership, and corporate and legal structure (criteria which the Department examines in its CVD CCR successor-in-interest analysis) of Yihua Timber.[7] Specifically, Yihua Tech stated the following in support of its arguments:

- Effective May 17, 2016, the Guangdong Provincial Administration for Industry and Commerce approved Yihua Tech's change of name from Guangdong Yihua Timber Industry Co., Ltd., to Yihua Lifestyle Technology Co., Ltd., and approved a minor modification to Yihua Timber's business scope.[8] The name change and business scope modification were made to better reflect the company's continued focus on high-tech household product research and development, and its diversified household product offering.[9]
- There have been no changes to Yihua Tech's operations as a result of the name change or business scope change.[10]
- Yihua Tech's name change and business scope change are a rebranding to emphasize the diversified household products Yihua has always offered.[11]
- Yihua Tech has not added, or discontinued use of, furniture or flooring production facilities as a result of the change in name or the change in business scope.[12] Further, there has been no material change in the product types produced.[13]
- The members of the board of directors and managers remained the same before and after the name and business scope changes.[14] Yihua Tech made a single change with respect to the General Manager in November 2015, which was unrelated to the change in company name.[15]
- Comparing Yihua Tech's main input suppliers (identified as main suppliers by the value of purchases) for fiscal year 2015 to its main suppliers for January through June 2016 shows that the majority of the suppliers remained the same.[16]
- Yihua Tech's customers before and after the name change are identical.[17]
- There have been no material changes in ownership. Yihua Tech continues to be a publically traded company with the largest shareholder during the "look-back window" remaining Yihua Enterprise (Group) Co., Ltd., despite the name change. Any other changes in the number of shares owned by investors are due to normal stock exchange activities not related to the name change.[18]

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[7] *See generally* CCR Request.
[8] *Id*. at Attachment 1 (Notification on Approved Changes Registration).
[9] *Id*. at 3.
[10] *See* CCR Request at 4; *see also* Amendment to CCR Request at 2.
[11] *See* CCR Request at 3; *see also* Amendment to CCR Request at 2.
[12] *See* CCR Request at 4 and Attachment 4 (The name and address of Yihua's flooring production facilities before and after the name change); *see also* Amendment to CCR Request at 3-4.
[13] See Amendment to CCR Request at Attachment 1 (List of merchandise produced and sold before and after the company's name and business scope change).
[14] *See* CCR Request at Attachment 1 and 5 (Attachment 5 lists the company's board of directors and management before and after the name change and the names are identical to the board of director's listed in Attachment 1 (Notification on Approved Changes Registration)); *see also* Amendment to CCR Request at Attachment 2.
[15] *See* CCR Request at Attachment 6 (Board of Directors "Announcement on the Resignation and Appointment of the General Manager").
[16] *Id*. at Attachment 9; *see also* Amendment to CCR Request at Attachment 4 (Yihua Tech's trial balances as of December 2015 and June 2016, accounts payable, list of suppliers/accounts receivable subledgers, and list of U.S. customers for each time period).
[17] *Id*. at 5 and Attachment 10 (List of U.S. customers before and after the name and business scope change).
[18] *See* CCR Request at 5; *see also* Amendment to CCR Request at 4.

- There have been no material changes to Yihua Tech's corporate or legal structure.[19]
- There were no corporate or legal changes applied for by Yihua Tech or approved by the Provincial Administration.[20]
- Yihua Tech's Articles of Incorporation and Business License before and after the name change reflect no other changes to its operations or legal structure.[21]

The Department has the authority, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.216(d), to conduct a CCR of an order whenever it receives information concerning, or a request from an interested party for a review of, an order which shows changed circumstances sufficient to warrant a review of such order. In the past, the Department has used CCRs to consider the applicability of cash deposit rates after there have been changes in the name or structure of a respondent, such as a merger or spinoff ("successor-in-interest," or "successorship," determinations). Thus, consistent with Department practice, the information submitted by Yihua Tech, which is described above and includes information regarding a name change, demonstrates changed circumstances sufficient to warrant a review.

Moreover, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notice of initiation of the review and the preliminary results of review if the Department concludes that expedited action is warranted. The Department has combined these determinations in successor-in-interest cases when sufficient documentation has been provided supporting the request to make a preliminary determination.[22] In this instance, because we have determined that the information necessary to support the request for a preliminary determination is on the record, we find that expedited action is warranted, and we are combining the notice of initiation and the notice of preliminary results, in accordance with 19 CFR 351.221(c)(3)(ii).

AD Methodology

In a CCR, we generally consider a company to be the successor to another company for AD cash deposit purposes if the operations of the successor are not materially dissimilar from those of its predecessor.[23] In making this determination for purposes of applying the AD law, the Department examines a number of factors including, but not limited to, changes in: (1) management, (2) production facilities, (3) suppliers, and (4) customer base.[24] While no one, or several of these factors, will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its

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[19] *Id*. at 5 and Attachments 1-3 (Notification on Approved Changes Registration, Board of Director's Resolution, and Shareholders' Resolution, respectively).
[20] *Id*. at 5.
[21] *Id*. at 5 and Attachments 7 and 8 (Yihua Tech's Articles of Incorporation and Business License, respectively).
[22] *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 69 FR 75921, (December 20, 2004).
[23] *See Brake Rotors from the People's Republic of China: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 70 FR 69941 (November 18, 2005).
[24] *See Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring from the People's Republic of China*, 79 FR 48117,48118 (August 15, 2014), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review*, 79 FR 58740 (September 30, 2014).

resulting operation is essentially the same as that of its predecessor.[25] Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as essentially the same business entity as the prior company, the Department will assign the new company the AD cash deposit rate of its predecessor.[26]

On May 17, 2016, the Guangdong Provincial Administration for Industry and Commerce approved Yihua Tech's change of name from Guangdong Yihua Timber Industry Co., Ltd. to Yihua Lifestyle Technology Co., Ltd., as well as a minor modification to the company's business scope.[27] With regard to the modification of the business scope, according to Yihua Tech, language was added to better describe the operations the company was already engaged in, including research and development; thus, the expanded language was simply intended to align the recorded business scope language with the company's ongoing activities and did not reflect any material change in its actual operations.[28]

With respect to management, outside of a single change to the individual appointed to the general manager position, which occurred before the name change, we find that the management personnel of Yihua Tech has remained the same as those of Yihua Timber.[29] Furthermore, The company's board of directors did not change as a result of the change in name and the modification to the business scope.[30] We find the continuity in the company's management and board of directors to be key factors indicating Yihua Tech's operation is the same as that of its predecessor.[31]

With respect to production facilities, Yihua Tech reported that it has not added, or discontinued use of, wood flooring production facilities as a result of the change in name or the change in business scope.[32] After reviewing the lists of merchandise produced in 2015 and 2016, we find that there have been no material changes in the product types produced by Yihua Tech..[33]

Regarding raw material suppliers, after reviewing the list of main raw material input suppliers for fiscal year 2015 and for January through June 2016, we find that the majority of the suppliers remained the same.[34] Specifically, Yihua Tech's main raw material suppliers were identical with

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[25] *Id*.
[26] *See, e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review*, 70 FR 17063, 17064 (April 4, 2005); *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).
[27] *See* CCR Request at Attachment 1 for the approval from the Guangdong Provincial Administration for Industry and Commerce.
[28] *Id.* at 3-4; *see also* Amendment to CCR Request at 2.
[29] *Id*. at Attachment 6.
[30] *Id*. at Attachments 1 and 5.
[31] *See Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China*, 81 FR 76561 (November 3, 2016), unchanged in *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Results of Changed Circumstances Review*, 81 FR 91909 (December 19, 2016).
[32] *See* CCR Request at Attachment 4; *see also* Amendment to CCR Request at 3-4.
[33] *See* Amendment to CCR Request at Attachment 1.
[34] *See* CCR Request at Attachment 9; *see also* Amendment to CCR Request at Attachment 4.

the exception of one supplier.[35] Therefore, we have determined that the degree to which the suppliers changed after Yihua Timber became Yihua Tech is not significant or material.

With regard to its customer base, Yihua Tech provided lists of its main U.S. customers as of December 31, 2015, and May 31, 2016 (before and after the name change).[36] After reviewing the lists, we find that Yihua Tech's main U.S. customer base remains unchanged from that of Yihua Timber.

In a CCR, we generally consider a company to be the successor to another company for AD cash deposit purposes if the operations of the successor are not materially dissimilar from those of its predecessor. Based on the totality of the information on the record, we preliminarily find that the company's management has remained the same, the production facilities remain unchanged, there were no material changes to the company's supplier relationships, and the customer base was unchanged. Thus, we have determined that the operations of the successor are not materially dissimilar from those of its predecessor.

CVD Methodology

With respect to successor-in-interest CCRs of countervailing duty orders, the Department will make an affirmative successorship finding (*i.e.*, the respondent company is the same subsidized entity for CVD cash deposit purposes as the predecessor company) where there is no evidence of significant changes in: (1) the respondent's operations; (2) ownership; and (3) corporate or legal structure during the relevant period (*i.e.*, the "look-back window") that could have affected the nature and extent of the respondent's subsidy levels.[37] For purposes of CVD CCRs, the "look-back window" is defined as the period spanning from the present (*i.e.*, the time the CCR request was submitted to the Department), back to the end of the period of investigation or, if there have been intervening opportunities to request an administrative review, the end of the period of review associated with the most recent opportunity to request an administrative review. In this case, the look-back window covers the period from December 31, 2014, (the end of the period of review associated with the most recent opportunity to request an administrative review) through November 18, 2016, (the date on which Yihua filed the Amendment to CCR Request). The look-back window has been circumscribed in this manner based, in part, on the principle that if changed circumstances occurred prior to this period that were of concern to any party in the proceeding, that party could have requested an administrative review to consider those changes. Where the Department makes an affirmative CVD successorship finding, the successor's merchandise will be entitled to enter under the predecessor's cash deposit rate.[38]

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[35] *Id*.
[36] *Id.* at Exhibit 10.
[37] *See Certain Pasta from Turkey: Preliminary Results of Countervailing Duty Changed Circumstances Review*, 74 FR 47225 (September 15, 2009), unchanged in the final results at 74 FR 54022 (October 21, 2009) ("*Pasta from Turkey*") (listing the criteria the Department reviews to make an affirmative CVD successorship finding). *See also Certain Lined Paper Products from India: Notice of Initiation and Preliminary Results of Countervailing Duty Changed Circumstances Review*, 79 FR 38011 (July 3, 2014) ("*Lined Paper from India*") (formalizing the CVD methodology for a company successorship analysis for CCR purposes).
[38] *Id*.

As previously mentioned, on May 17, 2016, the Provincial Administration approved a modification to the language of the company's business scope. Specifically, according to Yihua Tech, language was added to better describe the operations the company was already engaged in, including research and development; thus, the expanded language was simply intended to align the recorded business scope language with the company's ongoing activities and did not reflect any material change in its actual operations.[39] Accordingly, we find no evidence of material change in the company's operations that could have had an impact on the company's subsidies levels.

With regard to ownership, we find that ownership has remained essentially the same. Yihua Tech is a publicly traded company.[40] Yihua Enterprise (Group) Co., Ltd. (Yihua Group), has been and continues to be the largest shareholder of the company both before and after the name change.[41] The record evidence shows minor changes in the shareholdings of other investors; however, these changes are consistent with those of any publicly traded company, and we agree that these changes reflect buying and selling of publicly owned shares unrelated to the change of name.[42] Based on this analysis, we find that there is no evidence of material change in ownership that could have had an impact on the company's subsidies levels.

As for corporate or legal structure, Yihua Tech states that there have been no material changes to corporate or legal structure, and thus no applications for or approvals by the Provincial Administration for such changes.[43] After reviewing the Notification on Approved Changes Registration, Board of Director's Resolution, and Shareholders' Resolution, we find no evidence as to changes with respect to corporate or legal structure.[44] Furthermore, after reviewing the company's Articles of Association and Business Licenses before and after the name change, we note no changes.[45] Based on this information, we find that there is no evidence of significant changes in corporate and legal structure that could have had an impact on the company's subsidies levels.

Consequently, we preliminarily determine that there were no significant changes in the company's operations, ownership, and corporate or legal structure that could have had an impact on its subsidies levels during the relevant period, referred to above as the "look-back" window. This finding is consistent with standards set in *Pasta from Turkey* and formalized in *Lined Paper from India*.

Recommendation: Based on our analysis of the information contained in Yihua Tech's CCR Request and Amendment to CCR Request, we recommend that the Department preliminarily

[39] *Id.* at 3-4; *see also* Amendment to CCR Request at 2.
[40] *See* CCR request at 5.
[41] *Id*.; see also Amendment to CCR Request at 4. Yihua Group's equity share as the Controlling Shareholder changed slightly from 23.84% in 2015 before the change to 24.72% as of 2016 following the change.
[42] *See Pasta from Turkey* at 47228 (September 15, 2009), unchanged in 74 FR 54022 (October 21, 2009).
[43] *See* CCR Request at 5 and Attachments 1-3 (Notification on Approved Changes Registration, Board of Director's Resolution, and Shareholders' Resolution, respectively).
[44] *Id*.
[45] *Id*. at 5 and Attachments 7 and 8 (Yihua Tech's Articles of Incorporation and Business License, respectively).

determine that Yihua Tech is the successor-in-interest to Yihua Timber for purposes of the AD and CVD orders on wood flooring from the PRC.

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Agree Disagree

2/1/2017

X Ronald K. Lorentzen

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance