



A-570-928

POR: 2/1/17 – 1/31/18

Public Document

E&C/OV: CL

DATE: October 29, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the Ninth
Administrative Review of the Antidumping Duty Order on
Uncovered Innerspring Units from the People's Republic of China;
2017-2018

I. SUMMARY

In response to a request from an interested party, the Department of Commerce (Commerce) is conducting the ninth administrative review (AR) of the antidumping duty (AD) order on uncovered innerspring units from the People's Republic of China (China) for the period of review (POR), February 1, 2017, through January 31, 2018. This review covers two companies, Comfort Coil Technology Sdn. Bhd. (Comfort Coil) and Foshan Nanhai Jolyspring (Foshan Nanhai), respectively.

We preliminarily find that Comfort Coil had no shipments. In addition, we preliminarily find that Foshan Nanhai did not demonstrate that it is separate from the China-wide entity, and therefore, we have preliminarily assigned it the China-wide rate of 234.51 percent.

II. BACKGROUND

On February 19, 2009, Commerce published in the *Federal Register* the antidumping duty order on uncovered innersprings from China.¹ On February 28, 2018, Commerce received a timely

¹ See *Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009).



request for review pursuant to 19 CFR 351.213(b) from Leggett and Platt, Incorporated (the petitioner) to conduct an administrative review of Comfort Coil and Foshan Nanhai.² According to the petitioner's request, Comfort Coil is located in Malaysia, and Foshan Nanhai is located in China.³ The petitioner stated that it believed that Comfort Coil and Foshan Nanhai, either directly or through affiliated companies, made sales, shipments, and/or exports of subject merchandise to the United States during the POR.⁴ On April 16, 2018, Commerce published in the *Federal Register* a notice of initiation of this review.⁵

Because the respondents had not entered an appearance before Commerce for this review, Commerce sent AD questionnaires to Foshan Nanhai and Comfort Coil by FedEx on May 11, 2018.⁶ On May 14, 2018, Commerce uploaded the AD questionnaires on Enforcement and Compliance's electronic filing system, ACCESS.⁷ The questionnaire for Foshan Nanhai was delivered on May 16, 2018. Foshan Nanhai never responded to the questionnaire, nor did it contact Commerce to state that it was unable to respond or to request an extension of time to do so.

The questionnaire for Comfort Coil was undeliverable on May 30, 2018.⁸ On June 4, 2018, the petitioner provided an alternate address for Comfort Coil.⁹ On July 5, 2018 Commerce resent the AD questionnaire to Comfort Coil by FedEx, using the alternate address provided by the petitioner.¹⁰ On July 11, 2018, in response to Commerce's July 5, 2018 questionnaire, Comfort Coil stated it had "no sales, exports, or entries of subject merchandise during the period of review."¹¹ On July 30, 2018, Commerce issued a no shipment inquiry to U.S. Customs and Border Protection (CBP) with respect to Comfort Coil, and CBP reported no entries for the company during the POR.¹²

III. 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

² See the petitioner's Letter, "Uncovered Innerspring Units from the People's Republic of China: Request for Antidumping Administrative Review" (February 28, 2018).

³ *Id.*

⁴ *Id.*

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 16298 (April 16, 2018) (*Initiation Notice*).

⁶ See Letter from Commerce, "Ninth Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Initial AD Questionnaire" (May 11, 2018).

⁷ See Letters from Commerce to Foshan Nanhai and Comfort Coil (May 14, 2018).

⁸ See Memorandum to the File, "Ninth Antidumping Duty Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Initial AD Questionnaire," dated June 1, 2018.

⁹ See the petitioner's Letter to Commerce, "Ninth Antidumping Duty Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Alternative Address for Initial AD Questionnaire" (June 4, 2018).

¹⁰ See Letter from Commerce, "Ninth Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Initial AD Questionnaire" (July 5, 2018).

¹¹ See Letter to Commerce, "Uncovered Innerspring Units from the People's Republic of China - No Sales Certification" (July 11, 2018).

¹² See Commerce's Memorandum, "No shipment inquiry" (August 1, 2018).

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.

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, 7326.20.0090, 7320.20.5010, 7320.90.5010, or 7326.20.0071 of the Harmonized Tariff Schedule of the United States (HTSUS).¹³ The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS

On July 11, 2018, Comfort Coil responded to the AD questionnaire and reported that it made no shipments, sales, exports, or entries of subject merchandise to the United States during the POR.¹⁴ To confirm Comfort Coil’s no shipment claim, Commerce issued a no shipment inquiry to CBP requesting that it review Comfort Coil’s no shipment claim.¹⁵ CBP reported that Comfort Coil had no shipments during the POR.¹⁶ Given that Comfort Coil certified that it made no shipments of subject merchandise to the United States during the POR and there is no information calling its claim into question, we preliminarily determine that Comfort Coil did not have any reviewable transactions during the POR. Consistent with Commerce’s practice, we will not rescind the review with respect to Comfort Coil but, rather, will complete the review and issue instructions to CBP based on the final results.¹⁷

¹³ Based on a recommendation by CBP, on September 6, 2017, the Department added HTS 7326.20.0090 to the scope. See *Uncovered Innerspring Units from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 8967, 8967 n.2 (March 2, 2018).

¹⁴ See Letter to Commerce, “Uncovered Innerspring Units from the People’s Republic of China - No Sales Certification” (July 11, 2018).

¹⁵ See Commerce’s Memorandum, “No shipment inquiry” (August 1, 2018).

¹⁶ *Id.*

¹⁷ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR at 51306 (August 28, 2014).

V. NME COUNTRY 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 Commerce. Commerce considers China to be an NME country.¹⁸ Therefore, we continue to treat China as an NME country and apply our NME methodology for purposes of these preliminary results.

Accordingly, there is a rebuttable presumption that all companies within an NME are subject to government control, and thus, should be assessed a single AD rate.¹⁹ In the *Initiation Notice*, Commerce notified parties of the application process by which respondents may obtain separate rate status in this review.²⁰ It is Commerce'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 rate, Commerce analyzes each exporting entity in an NME country under the test established in *Sparklers*,²¹ as amplified by *Silicon Carbide*.²² However, if Commerce determines that a company is wholly foreign-owned by individuals or companies located in a market economy (ME), then a separate rate analysis is not necessary to determine whether it is independent from government control.²³

To demonstrate separate rate status eligibility, Commerce requires entities subject to review who were assigned a separate rate in the previous segment of this proceeding to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.²⁴ For entities that were not assigned a separate rate in the previous segment of this proceeding, Commerce requires a separate rate application to demonstrate separate rate status eligibility.²⁵ In addition to submitting a separate rate application or certification, as appropriate, companies

¹⁸ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair-Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum to Gary Taverman, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018).

¹⁹ See, e.g., *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); see also 19 CFR 351.107(d).

²⁰ See *Initiation Notice*, 83 FR at 16299-300.

²¹ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (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, 22586-89 (May 2, 1994) (*Silicon Carbide*).

²² See *Silicon Carbide*, 59 FR at 22585.

²³ See, e.g., *Certain Pneumatic Off-the-Road Tires from the People's Republic of China, Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 9278, 9284 (February 20, 2008), unchanged in final affirmative determination, 73 FR 40485 (July 15, 2013).

²⁴ See *Initiation Notice*, 83 FR at 16300.

²⁵ *Id.*

subject to individual examination also must respond to all parts of Commerce's questionnaire to be eligible for separate rate status.²⁶

As noted above, Foshan Nanhai did not respond to the AD questionnaire, and therefore, did demonstrate that it is entitled to a separate rate. Accordingly, we consider Foshan Nanhai to be part of the China-wide entity. Because no review was requested of the China-wide entity, the pre-existing China-wide rate of 234.51 percent will apply to entries of Foshan Nanhai's subject merchandise into the United States during the POR.²⁷

VI. CONCLUSION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

10/29/2018

X



Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

²⁶ *Id.*

²⁷ See *Uncovered Innerspring Units from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2012-2013, 79 FR 56338, (September 19, 2014).