UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-928
Anti-circumvention Inquiry
Public Document
E&C Office V: MR

DATE: December 14, 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: Issues and Decision Memorandum for the Anti-circumvention Inquiry of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China

---

I. SUMMARY

We have analyzed the case and rebuttal briefs of the interested parties in the anti-circumvention inquiry of the antidumping duty (AD) order on uncovered innerspring units (innersprings or innerspring units) from the People's Republic of China (China). As a result of our analysis, we continue to find, consistent with the *Preliminary Determination*,[1] that imports into the United States of innersprings produced in Macau by Macao Commercial and Industrial Spring Mattress Manufacturer (Macao Commercial) and the other companies that are part of the Macao Commercial Group from materials and/or components originating in China are circumventing the antidumping duty order on innerspring units from China pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of issues for which we received comments and rebuttal comments from interested parties:

Comment 1: Whether the Application of Partial Adverse Facts Available Is Appropriate

[1] *See Uncovered Innerspring Units from the People's Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order*, 83 FR 42254 (August 21, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM) and Preliminary Analysis Memorandum; *see also Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009) (*China Innerspring Units Order*).

Comment 2: Whether the Nature of the Production Process and the Extent of the Production Facilities in Macau Are Substantial
Comment 3: Whether Macao Commercial's Level of Research and Development in Macau Is Substantial
Comment 4: Whether Increased U.S. Imports of Innersprings from Macao and Increased Macanese Imports of Steel Wire from China Are Indicative of Circumvention
Comment 5: Macao Commercial's Use of Non-Chinese Origin Steel Wire

II. BACKGROUND

On August 21, 2018, Commerce published the *Preliminary Determination* of circumvention of the *China Innerspring Units Order*. Pursuant to section 781(e) of the Act, on August 13, 2018, we notified the U.S. International Trade Commission (ITC) of our affirmative preliminary determination of circumvention, in accordance with section 781(e) of the Act, and informed the ITC of its ability to request consultation with Commerce regarding the possible inclusion of the products in question within the *China Innerspring Units Order* pursuant to section 781(e)(2) of the Act. The ITC did not request consultations. On September 13, 2018, Macao Commercial filed its case brief.[2] The petitioner (Leggett & Platt, Incorporated) filed its rebuttal brief on September 18, 2018.[3] On September 28, 2018, Commerce held both a public and closed hearing limited to the issues raised in the case and rebuttal briefs.

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 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

[2] *See* Letter from Macao Commercial "Uncovered Innerspring Units from the People's Republic of China Case Brief of Macao Commercial and Industrial Spring Mattress Manufacturer," dated September 13, 2018 (Macao Commercial Case Brief) ; *see also* Letter from Commerce to Macao Commercial, regarding "Anticircumvention Inquiry of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China: Rejection of Untimely New Factual Information," dated September 11, 2018 (rejecting Macao Commercial's initially filed case brief for containing untimely new factual information).
[3] *See* Letter from the petitioner "Uncovered Innersprings from the People's Republic of China: Rebuttal Brief," dated September 18, 2018 (the petitioner's Rebuttal Brief).

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, 7326.20.0070, 7320.20.5010, or 7320.90.5010 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.

IV. SCOPE OF THE ANTI-CIRCUMVENTION INQUIRY

The products covered by this inquiry are innersprings, as described above, that are manufactured in Macau by the Macao Commercial Group[4] with Chinese-origin components and/or materials,[5] and that are subsequently exported from Macau to the United States.

V. CHANGES SINCE THE PRELIMINARY DETERMINATION

As discussed below in the “Statutory Analysis” section, Commerce has made no changes to its *Preliminary Determination* with regard to its analysis under the anti-circumvention factors of section 781(b) of the Act. For a complete description of our analysis, *see* the *Preliminary Determination* and accompanying memoranda, which are incorporated herein by reference. We have addressed interested parties’ comments below in the “Discussion of the Issues” section.

VI. STATUTORY FRAMEWORK

Section 781 of the Act addresses circumvention of antidumping duty orders. Section 781(b)(1) of the Act provides that Commerce, after taking into account any advice provided by the ITC under section 781(e) of the Act, may include imports of merchandise assembled or completed in a third country within the scope of an order at any time an order is in effect if: (A) the merchandise imported in the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping duty order, (B) before importation into the United States, such imported merchandise is completed or assembled in a third country from merchandise which is subject to such an order or is produced in the foreign

---

[4] The Macao Commercial Group is comprised of the following companies: Macao Commercial, Tai Wa Commercial (a Macao trading company), Tai Wa Machinery (a Macao trading company), Wa Cheong Hong (a Macao trading company), and Heshan Tai Hua Jian Ye Machinery Co., Ltd. (Heshan Tai Hua) (a Chinese manufacturer). In the *Preliminary Determination*, we determined that these companies are affiliated and should be treated as a single entity. *See* PDM at 6-9. No party commented on this determination. We continue to treat the Macao Commercial Group as a single entity in this final determination.

[5] Innersprings are generally made of four components: coils, border rods, clips and a quilted cloth covering. *See Uncovered Innerspring Units from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 62729 (September 12, 2016), and accompanying Issues and Decision Memorandum at 6 n.18. For purposes of this anticircumvention inquiry, any reference to components is to coils, border rods, clips and a quilted cloth covering, and any reference to materials is to steel wire, fabric, and glue. *See* First Supplemental Response at 44 (Commerce informed Macao Commercial in its supplemental questionnaire that the names of its raw materials would need to be considered public information. *See* Letter from Commerce to Macao Commercial, regarding “Uncovered Innerspring Units from the People’s Republic of China: Supplemental Questionnaire,” dated June 5, 2017 (Supplemental Questionnaire) at 21.c.

country with respect to which such order applies, (C) the process of assembly or completion in a third country is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) Commerce determines that action is appropriate to prevent evasion of an order.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider (A) the level of investment in the third country, (B) the level of research and development in the third country, (C) the nature of the production process in the third country, (D) the extent of production facilities in the third country, and (E) whether or not the value of processing performed in the third country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.[6] Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.[7]

Furthermore, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping duty order. Specifically, Commerce shall take into account (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the antidumping duty investigation that resulted in the issuance of an order.

VII. STATUTORY ANALYSIS

Section 781(b) of the Act directs Commerce to consider the criteria described above to determine whether merchandise completed or assembled in a third country is circumventing an order. Based on our findings of the statutory circumvention criteria, as explained below, we continue to find that innersprings manufactured in Macau by the Macao Commercial Group using materials and/or components sourced from China are circumventing the *China Innerspring Units Order*.[8]

---

[6] *See* Statement of Administrative Action (SAA), accompanying the Uruguay Round Agreements Act (URAA), H. Doc. No. 103-316 (1994), at 893.

[7] *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 73 FR 57591, 57592 (October 3, 2008) (*Tissue Paper Final Circumvention Determination*).

[8] The terms manufacture and produce are used interchangeably in this anticircumvention inquiry. *See*, *e.g.*, Preliminary Decision Memorandum at 6, 16; First Supplemental Response at 3, 14. Additionally, for purposes of analyzing the Macau Commercial Group's production process, the terms completion and assembly are used interchangeably. We note that the statute and the legislative history do not make a clear distinction between completion and assembly, and characterizing the Macau Commercial Group's production process as either completion or assembly does not affect our analysis of the statutory circumvention criteria.

Is the Merchandise Imported into the United States of the Same Class or Kind as Merchandise that is Subject to the China Innerspring Units Order

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(1)(A) of the Act, we continue to find that the innersprings manufactured by the Macao Commercial Group that are imported into the United States are identical to the merchandise covered by the *China Innerspring Units Order*. *See* discussion in the PDM at 13.

Whether Before Importation into the United States, Such Merchandise is Completed or Assembled in a Third Country from Merchandise that is Subject to the Order, or Produced in the Foreign Country that is Subject to the China Innerspring Units Order

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(1)(B) of the Act, we continue to find that the merchandise subject to this anti-circumvention inquiry was completed or assembled in Macau using Chinese-origin materials and/or components prior to importation into the United States. *See* discussion in the PDM at 14.

Whether the Process of Assembly or Completion in the Third Country is Minor or Insignificant

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(1)(C) of the Act, we continue to find that the process of assembly or completion in Macau is minor and insignificant. *See* discussion in the PDM at 14-16. Additionally, as provided below, our analysis of the criteria under section 781(b)(2) of the Act for determining whether the process of assembly or completion in the third country is minor or significant is unchanged from the *Preliminary Determination*. *See* discussion in the PDM at 14-16 and the Preliminary Analysis Memorandum at 5-7.

(1) Level of Investment in Macau

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(2)(A) of the Act, we continue to find that the level of investment in Macau by the Macao Commercial Group in the facilities and equipment used to produce the Chinese-origin materials is significant compared to the level of investment, both in terms of initial capital and equipment, referenced in the *Initiation Notice*.[9] *See* discussion in the PDM at 14 and the Preliminary Analysis Memorandum at 5-6.

(2) Level of Research and Development (R&D) in Macau

In response to interested parties' comments, we have further explained our analysis of this factor in Comment 3 below. Nonetheless, our analysis of this factor is unchanged from the *Preliminary Determination* (*see* discussion in the PDM at 14-15 and Preliminary Analysis Memorandum at 6), and, pursuant to section 781(b)(2)(B) of the Act, we continue to find that the Macao

[9] *See Uncovered Innerspring Units from the People's Republic China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order*, 81 FR 83801 (November 22, 2016) *(Initiation Notice)*.

Commercial Group has not provided evidence of a significant level of R&D expenditures in Macau to assemble and complete innersprings.

(3) Nature of the Production Process in Macau and
(4) Extent of the Production Facilities in Macau

In response to interested parties' comments, we have further explained our analysis of this factor in Comment 2 below. Nonetheless, our analysis of this factor is unchanged from the *Preliminary Determination* (*see* discussion in the PDM at 15 and Preliminary Analysis Memorandum at 6-7), and, pursuant to section 781(b)(2)(C) of the Act, we continue to find that the innersprings manufacturing process occurring in Macau is minor in terms of the production and process activities, and, pursuant to section 781(b)(2)(D) of the Act, that Macao Commercial's production facility is not extensive.

(5) Whether the Value of the Processing Performed in Macau Represents a Small Proportion of the Value of the Merchandise Imported into the United States

In response to interested parties' comments, we have further explained our analysis of this factor and application of partial adverse facts available (AFA) in Comment 1 below. Nonetheless, our analysis of this factor, including the application of partial AFA, is unchanged from the *Preliminary Determination*. *See* discussion in the PDM at 11-13 and 15-16; *see also* discussion in the Preliminary Analysis Memorandum at 2-5. Pursuant to section 781(b)(2)(E) of the Act, we continue to find that the value added by the processing in Macau represents a small proportion of the value of the merchandise imported into the United States.

Whether the Value of the Merchandise Produced in China is a Significant Portion of the Total Value of the Merchandise Exported to the United States

In response to interested parties' comments, we have further explained our analysis of this factor and application of partial AFA in Comment 1 below. Nonetheless, our analysis of this factor, including the application of partial AFA, is unchanged from the *Preliminary Determination*. *See* discussion in the PDM at 11-13 and 16; *see also* discussion in the Preliminary Analysis Memorandum at 2-5. Pursuant to section 781(b)(1)(D) of the Act, we continue to find that the value of the Chinese-origin materials/components used by the Macao Commercial Group to produce innersprings in Macau represents a significant portion of the total value of the merchandise exported to the United States.

Other Factors to Consider

Section 781(b)(3) of the Act instructs Commerce to consider several additional factors: pattern of trade, affiliation, and increase in imports. In response to interested parties' comments, we have further explained our analysis with respect to pattern of trade and increase in imports in Comment 4 below. Nonetheless, our analysis of these factors is unchanged from the *Preliminary Determination*. *See* discussion in the PDM at 16-17.

A. Pattern of Trade and Sourcing

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(3)(A) of the Act, we continue to find that the pattern of trade following the imposition of duties under the *China Innerspring Units Order*, as discussed in the PDM at 17 and in Comment 4 below, supports a finding that circumvention has occurred.

B. Affiliation

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(3)(B) of the Act, we continue to find that the record evidence does not indicate that any company within the Macao Commercial Group is affiliated with manufacturers or exporters of the materials from China that are used to produce innersprings in Macau. *See* discussion in the PDM at 17.

C. Increased Imports

Our analysis of this factor is unchanged from the *Preliminary Determination*. Pursuant to section 781(b)(3)(C) of the Act, we continue to find that the available data indicate that Macanese imports of steel wire (by far the predominant material input) from China under the Harmonized Tariff System of the United States (HTSUS) category that Macao Commercial reported using indicate a substantial increase in volume since the imposition of the *China Innerspring Units Order*, which further supports a finding that circumvention has occurred. *See* the PDM at 17 and in Comment 4 below.

VIII. DISCUSSION OF THE ISSUES

Comment 1: Whether the Application of Partial Adverse Facts Available Is Appropriate

Macao Commercial:

- Commerce failed to meet the legal standard in its finding that Macao Commercial did not act to the best of its ability in providing Commerce with financial information in the normal course of its business.[10]
- Commerce's desire to review and verify records in a format that it finds desirable is in direct conflict with Commerce's direction that Macao Commercial provide only records that it maintains in the normal course of its business. For Macao Commercial, the normal course of business is that of a family-owned and operated commercial enterprise that is not held as accountable as a privately held entity to the informational requirements of an audited public or private company.[11]
- Macao Commercial, in fact, provided information to tie its manufacturing costs to its shipments of innersprings.[12]

[10] *See* Macao Commercial Case Brief at 3.
[11] *Id.* at 13.
[12] *Id.* at 13-14.

- Certain software purchased by Macao Commercial to manage certain aspects of its operations does not necessarily integrate with accounting records.[13]
- Commerce also noted what it described as “significant discrepancies and unexplained differences in Macau Commercial's financial statements.” However, the alleged discrepancies are not as “significant” as stated and they do not render the financial statements unreliable. The reliability of Macao Commercial’s financial statements can be corroborated by seeking information about third party acceptance and reliance thereupon.[14]
- Commerce overlooked previously submitted information that explained that Macao Commercial maintains its records in multiple currencies and provided the relevant rates of exchange or conversion.[15]

The petitioner:

- Commerce properly determined that Macao Commercial failed to “cooperate to the best of its ability” and accordingly applied AFA.[16]
- In its initial response to Commerce’s request for reconciliation worksheets regarding Macao’s audited financial statements, Macao Commercial stated that it was “carefully reviewing its records to see what documents it maintains in the normal course of its business which allows it to respond to these requests.” In a subsequent response, Macao Commercial declined to provide worksheets and reconciliations, stating that no such reconciliations exist in its normal books and records. This displays a remarkable lack of understanding of reconciliations because reconciliations are not accounting records; instead, they are roadmaps created by a respondent that link the data it reports in its questionnaire responses to the books and accounting record a company keeps in the ordinary course of business.[17]
- In its final response to Commerce’s supplemental questionnaire, Macao Commercial provided a detailed summary of the books and records it maintains in the normal course of business and how they tie to its annual financial statements. Yet despite these records, it failed to create or submit any of the reconciliations.[18]
- The financial statements provided by Macao Commercial contained numerous inconsistencies making it impossible to confirm the accuracy of the information, and Macao Commercial did not provide any clarifying information. In the absence of any contemporaneous clarification, Commerce’s finding of inconsistencies between the financial statements is reasonable.[19]
- Commerce has consistently applied AFA to respondents that fail to provide a complete reconciliation (citing *Prestressed Concrete Steel Wire Strand from Mexico*, *Cold-Rolled Carbon Steel Flat Products from Venezuela*, and *Stainless Steel Wire Rod from India*).[20]

---

[13] *Id*. at 14.
[14] *Id.* at 15-16.
[15] *Id.* at 15.
[16] *See* the petitioner’s Rebuttal Brief at 2.
[17] *Id.* at 4-5.
[18] *Id.* at 5.
[19] *Id.* at 6-7.
[20] *Id.* at 5-6, citing *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Mexico*, 68 FR 68350 (December 8, 2003) (*Prestressed Concrete Steel Wire Strand from Mexico*), and accompanying Issues and Decision Memorandum at Comment 6 (“Cablesa, after having been given numerous opportunities by the Department, failed

Commerce Position: We agree with the petitioner and continue to find that our application of partial AFA is appropriate.[21] The fact remains that, despite our repeated requests, Macao Commercial did not prepare and provide a reconciliation between its internal records and the data it submitted in its questionnaire responses, even though it has records related to shipments, raw materials, cost of goods sold, and financial statements.[22] In our initial questionnaire, we asked:

> Please provide the costs for each unique product type, for each stage of processing innersprings components into innersprings, as recorded in your normal books and records. In formulating your response, provide complete and fully translated documentation and worksheets supporting the quantification of the costs to complete the production of innersprings at each stage of processing.[23]

In response to this inquiry, Macao Commercial provided an overall narrative description and self-selected one set of production records for one shipment to use as an example.[24] In other words, despite our request for complete documentation, Macao Commercial narrowed its response to our question on its own accord. Moreover, while it did provide some source documents (some of which were not completely translated), it did not provide any accounting ledgers into which these flowed, much less demonstrate how the information from the source documents flowed into its accounting records.[25]

In our supplemental questionnaire, consistent with section 782(d) of the Act, we pointed out Macao Commercial's deficient response and provided more explicit guidance.[26] Nonetheless, despite receiving multiple extensions and opportunities, Macao Commercial never provided the requested reconciliations and stated that no such reconciliations exist in its normal books and records.[27] Commerce expects companies to be able to produce a reconciliation of their

---

to reconcile its reported costs to its normal books and records when the information necessary to do so was in its control. Moreover, Cablesa made no effort to inform the Department of its inability to perform such a reconciliation."); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Venezuela*, 67 FR 62119, 62120 (October 3, 2002) (*Cold-Rolled Carbon Steel Flat Products from Venezuela*) ("Sidor failed to provide a reconciliation of the POI cost of manufacture per its books and records to the per-unit costs reported to the Department, thereby negating the Department's ability to use Sidor's home market sales data."); and *Stainless Steel Wire Rods from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 68 FR 26288 (May 15, 2003) (*Stainless Steel Wire Rod from India*), and accompanying Issues and Decision Memorandum at Comment 1.

[21] *See* PDM at 11-12 and Preliminary Analysis Memorandum at 2-5.

[22] *See* PDM at 11-12 and Preliminary Analysis Memorandum at 2-5.

[23] *See* Letter from Commerce to Macao Commercial, regarding "Uncovered Innerspring Units from the People's Republic of China: Circumvention Inquiry Questionnaire," dated November 29, 2016, at 10-11.

[24] *See* Letter from Macao Commercial to Commerce, regarding "Uncovered Innerspring Units from the People's Republic of China: Anti-Circumvention Inquiry of Macao Commercial and Industrial Spring Mattress Manufacturer (Macao Commercial); Response of Macao Commercial to Questionnaire," dated January 4, 2017 (Initial Response Part 1), at 61-65 and Exhibit 34.

[25] *Id*. at Exhibit 34.

[26] *See* Supplemental Questionnaire, at questions 23 and 24.

[27] *See* PDM at 12; *see also* Letter from Macao Commercial to Commerce, regarding "Uncovered Innerspring Units from the People's Republic of China: Anti-Circumvention Inquiry of Macao Commercial and Industrial Spring

accounting records based on their normal books and records, upon request. As explained in the supplemental questionnaire, the reconciliation would consist of worksheets that illustrate how the costs reported on the audited financial statements (or, if your company does not have audited financial statements, on the tax filing) reconcile to the general ledger or trial balance and to the cost accounting system (*i.e.*, the source used to derive the reported input quantities, *e.g.*, materials sub-ledgers, production records, and inventory records).[28] We further stated that if Macao Commercial does not have a cost accounting system, that it reconcile the general ledger or trial balance to the books and records normally kept by the company which were used to derive the reported quantity of each input consumed in the production of merchandise covered by the scope of the antidumping duty order.[29]

Sections 781(b)(2)(E) and (b)(1)(D) of the Act require Commerce to determine whether the value of the processing performed in Macau represents a small proportion of the value of the merchandise imported into the United States, and whether the value of the merchandise produced in China is a significant portion of the total value of the merchandise exported to the United States. We have found in prior anticircumvention cases that the analysis for these factors requires a similar exercise as in determining normal value in Commerce's typical antidumping methodology for price comparison purposes.[30] In determining costs for purposes of normal value, section 773(f)(1)(A) of the Act requires that costs be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles (GAAP) of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise. In accordance with this statutory provision, Commerce will accept costs of the respondent if they are based on records kept in accordance with GAAP and reasonably reflect the costs associated with the production and sale of the merchandise. To determine whether the respondent's costs reasonably reflect the costs associated with the production and sale of the merchandise, Commerce examines the reasonableness of the respondent's cost allocation methodology and whether the methodology is used in the normal accounting records. This is done by requesting the respondent to provide a reconciliation of the submitted costs to the financial statements. The cost reconciliations provided by the respondent assist Commerce in determining the reasonableness of the cost allocation methodology and, ultimately, whether the submitted costs reasonably reflect the costs associated with the production and sale of the merchandise.

Mattress Manufacturer (Macao Commercial); Third Supplemental Response to Supplemental Questionnaire," dated June 29, 2017 (Third Supplemental Response) at 13-16.

[28] *See* Supplemental Questionnaire

[29] *Id*.

[30] *See, e.g.*, *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Preliminary Determination of Anti-circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 82 FR 58170 (December 11, 2017), and accompanying Preliminary Decision Memorandum at 10, unchanged in *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23895 (May 23, 2018); *Steel Wire Garment Hangers from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination*, 76 FR 27007, 27008 (May 10, 2011), unchanged in *Steel Wire Garment Hangers from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 76 FR 66895 (October 28, 2011).

Reconciliations are vital to our ability to conduct a anticircumvention inquiry, particularly verification of the cost information relating to our analysis of the factors under sections 781(b)(2)(E) and (b)(1)(D) of the Act. Although the format of the reconciliation of submitted costs to actual financial statement costs depends greatly on the nature of the accounting records maintained by the respondent, the reconciliation represents the starting point of a cost verification because it assures Commerce that the respondent has accounted for all costs before allocating those costs to individual products.[31] The cost reconciliations, along with their supporting documents, show and explain the link between the information the respondent provides in its questionnaire responses and the books and records it maintains in the ordinary course of business, which are critical to ascertain the accuracy of data submitted to address the factors under sections 781(b)(2)(E) and (b)(1)(D) of the Act.[32] Whether or not Macao Commercial has a sophisticated, fully-integrated accounting system is immaterial; Commerce regularly investigates and reviews small companies such as Macao Commercial in its antidumping cases, requesting and obtaining the same kind of reconciliation that Macao Commercial failed to produce. Also, Commerce strives to provide respondents with adequate time and assistance to comply with requests for information. Commerce provided Macao Commercial with multiple extensions of time and opportunities to provide the requested cost reconciliations, in accordance with section 782(d) of the Act. However, Macao Commercial continuously failed to provide the required cost reconciliation necessary for Commerce to analyze the statutory circumvention criteria and conduct a verification.

Additionally, we continue to have concerns with the discrepancies in Macao Commercial's financial statements that raise concerns about their reliability. Macao Commercial argues that we could corroborate their reliability by seeking information about third-party acceptance and reliance on the financial statements. It is not Commerce's responsibility to attempt to reconcile differences in the figures reported between original and translated versions of the financial statements, given that the only difference should be in the language. Explaining such differences is incumbent upon the respondent,[33] and the exchange rates that Macao Commercial states that we "overlooked" were in fact submitted in a completely separate part of its response for an unrelated item.[34] While Macao Commercial argues that the other differences in its financial reporting are not so significant to undermine its financial statements, it nonetheless failed to explain the differences and why they should be considered minor. Even if we were to overlook the discrepancies contained within the financial statements, Macao Commercial has not provided the necessary reconciliations of the submitted costs to the financial statements.

[31] *See Prestressed Concrete Steel Wire Strand from Mexico* and accompanying Issues and Decision Memorandum at Comment 6; *Cold-Rolled Carbon Steel Flat Products from Venezuela* and accompanying Issues and Decision Memorandum at Comment 1.
[32] *See* PDM at 12.
[33] *See, e.g., Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1336 (Fed. Cir. 2002) ("The burden of production {belongs} to the party in possession of the necessary information.") (quoting *Zenith Elecs. Corp. v. United States*, 988 F.2d 1573, 1583 (Fed. Cir. 1993)).
[34] *See* Letter from Macao Commercial to Commerce, regarding "Uncovered Innerspring Units from the People's Republic of China: Anti-Circumvention Inquiry of Macao Commercial and Industrial Spring Mattress Manufacturer (Macao Commercial); Supplemental Response of Macao Commercial to Questionnaire," dated January 12, 2017 (Initial Response Part 2) at 12.

Because Macao Commercial has not provided the requested cost reconciliations, Macao Commercial has withheld requested information, failed to provide information in the form or manner requested, significantly impeded this anticircumvention inquiry, and provided unverifiable information. As a result, the use of facts otherwise available pursuant to section 776(a) of the Act is warranted. Furthermore, Macao Commercial failed to cooperate to the best of its ability to comply with the requests for information because it did not provide the requested cost reconciliations, despite receiving multiple opportunities and several extensions of time. Thus, we continue to determine that application of partial AFA is appropriate for this final determination. The U.S. Court of International Trade has upheld the application of AFA where a respondent fails to provide requested cost reconciliations in the context of an administrative review,[35] and a cost reconciliation is similarly of vital importance here in the analysis of the factors under sections 781(b)(2)(E) and (b)(1)(D) of the Act.

Comment 2: Whether the Nature of the Production Process and the Extent of the Production Facilities in Macau Are Substantial

Macao Commercial:

- Unlike the simple process by which Goldon (a company from a prior circumvention proceeding that Commerce used as reference when it self-initiated this inquiry) apparently made innersprings, the manufacturing process Macao Commercial employs is automated or semi-automated from coiling to pocketing to stranding the springs, to go along with the feeding, gluing process, quality control and packaging processes.[36]
- There is no proper ground for Commerce to analogize Macao Commercial's innerspring manufacturing operation with Goldon's simple assembly operation in terms of the nature or sophistication of the production process or the extent of the facilities or investment in Macau.[37]
- It is what is done at the facility which is the key, not the size of that facility. Here, the record clearly demonstrates that Macao Commercial employs a sophisticated process to produce its innersprings. It does not simply glue pre-existing parts together. Put another way, the question is whether Macao Commercial has demonstrated that it manufactures innersprings at the facility as claimed, and it has done so.[38]

The petitioner:

- Whether Macao Commercial's operations are properly described as assembly versus manufacturing and whether Macao Commercial produces pocketed or unpocketed innerspring is immaterial, given Commerce's finding that its accounting records are unreliable.[39]

Commerce Position: As an initial matter, in the *Preliminary Determination* we did not analogize Macao Commercial's operations to those of Goldon's. Goldon's production

---

[35] *See, e.g., Sidenor Indus. SL v. United States*, 664 F. Supp. 2d 1349, 1356-1359 (Oct. 30, 2009); *Myland Indus., Ltd. v. United States*, 31 CIT 1696, 1702-05 (CIT Oct. 25, 2007).
[36] *See* Macao Commercial Case Brief at 7.
[37] *Id*. at 6.
[38] *Id*. at 10.
[39] *See* the petitioner's Rebuttal Brief at 9.

experience was only used a benchmark for initiation purposes.[40] Rather, we made our determination based on the information Macao Commercial submitted during the course of this inquiry.[41] That information indicated that Macao Commercial uses a minimal number of upstream material inputs and a very small workforce in a production facility of limited size.[42] We acknowledged that Macao Commercial's process was more automated than that of Goldon's *via* our finding that its level of investment (including for machinery) was reasonably significant.[43] Nonetheless, we cannot "double-count" Macao Commercial's investment in equipment again here. Notwithstanding the double-counting issue, a greater degree of automation does not change the fact that the production process for manufacturing innersprings using imported raw materials, as described by Macao Commercial, involves a limited number of both workers and inputs in a small production area.[44] Moreover, Macao Commercial attempts to use semantics to draw a difference between manufacturing, on the one hand, versus completion or assembly on the other. However, neither the statute nor the legislative history contemplate a distinction between manufacturing and completion or assembly.[45] Thus, we continue to find that the nature of the production process in Macau is minor and Macao Commercial's production facility is not extensive.

Comment 3: Whether Macao Commercial's Level of Research and Development Is Substantial

Macao Commercial:
- Commerce's explanation in the preliminary determination is unclear. It appears to acknowledge all the R&D efforts and expenditures in Macau but was not able to find such activities substantial.[46]
- Commerce's finding that none of Macao Commercial's machinery expenses may be accounted for under R&D in Macau is unsubstantiated. At least the amount of its purchases from its affiliate, Tai Wa Machinery, should be considered.[47]
- Even if Commerce has authorization to not deem the full cost of the machinery as an R&D expenditure, Commerce failed to provide any analysis as to why the amount for purchases from Tai Wa Machinery is not qualified, except for the superficial assertion that there was a commingling of items.[48]

The petitioner did not comment on this issue.

Commerce Position: In the *Preliminary Determination*, the fact that we listed Macao Commercial's machinery purchases in the discussion of this factor was simply because we began

[40] *See Initiation Notice*.
[41] *See* PDM at 15; *see also* Preliminary Analysis Memorandum at 6-7.
[42] *Id*.
[43] *See* PDM at 14; *see also* Preliminary Analysis Memorandum at 5.
[44] *See* PDM at 15; *see also* Preliminary Analysis Memorandum at 6-7.
[45] *See, e.g.*, Omnibus Trade Act, Report of the Senate Finance Committee, S. Rep. No. 71, 100th Cong., 1st Sess. at 99-101 (1987); SAA at 892-95.
[46] *See* Macao Commercial Case Brief at 10-11.
[47] *Id*. at 11.
[48] *Id*. at 11-12.

our analysis by summarizing what Macao Commercial had reported in its responses.[49] This summarization was *not* an acknowledgement that we considered machinery purchases as part of R&D expenditures. In fact, in our analysis, we explicitly stated that we had already accounted for such purchases under the Level of Investment and that Macao Commercial was essentially trying to double-count its machinery purchases under two separate criteria.[50] Machinery purchases, whether from Tai Wa Machinery or from elsewhere, in and of themselves, are not an R&D expenditure. They are purchases of capital equipment and should be treated as part of the overall level of investment. While Macao Commercial referenced certain other R&D activities relating to patents,[51] nowhere did it quantify its specific R&D expenditures (such as the cost of developing the machines purchased from Tai Wa Machinery or the pursuit of patents), and even if it did, that amount would not be reliable given the discrepancies in its financial statements.[52]

Comment 4: Whether Increased U.S. Imports of Innersprings from Macao and Increased Macanese Imports of Steel Wire from China Are Indicative of Circumvention

Macao Commercial:

- In the PDM, Commerce provided data from the ITC's Data Web said to reflect an approximately 11 percent increase in the value of U.S. imports of innerspring units from Macao under 9404.29.9011, HTSUS. Commerce also provided data for Macanese imports of steel wire under HTS 7223.00.00, which also showed an increase.[53]
- The HTS categories used by Commerce for innerspring units and steel wire are not specific and include other merchandise besides those at issue.[54]
- Macao Commercial acknowledged its exports to the U.S. increased between 2014 and 2016. This increase was, however, the result of Macao Commercial's constant efforts to improve its efficiency and customer service and had nothing to do with the *China Innerspring Units Order*, or any effort to circumvent it.[55]
- Macao Commercial has acknowledged its production capacity and sales quantity to the U.S. have increased since its establishment. However, as previously acknowledged, this increase is the result of the company's commitment and endeavors to constantly enhance its production efficiency, product quality and customer satisfaction level, with substantial ongoing investment in the Macau operation.[56]

The petitioner:

- Commerce's analysis of other factors related to patterns of trade and increased imports supports its circumvention determination.[57]
- Macao Commercial objects to Commerce's finding, indicating that this import data is not

---

[49] *See* PDM at 14-15 and Preliminary Analysis Memorandum at 6.
[50] *See* Preliminary Analysis Memorandum at 6.
[51] *See* Preliminary Analysis Memorandum at 6; *see also* First Supplemental Response at 50.
[52] *See* PDM at 11-13 and Preliminary Analysis Memorandum at 2-5; *see also* Comment 1 *supra*.
[53] *See* Macao Commercial Case Brief at 16.
[54] *Id*.
[55] *Id.* at 17.
[56] *Id.* at 18.
[57] *See* the petitioner's Rebuttal Brief at 10.

indicative of circumvention because "9404.29.10" "describes mattresses, not just innersprings." Macao Commercial is incorrect.[58]

- Macao Commercial also objects to Commerce's use of the Macau steel wire import data. The import data are probative. They are consistent with and support the U.S. import data from Macau of uncovered innerspring units. Moreover, the Macau steel wire import data are not the sole, or even major, piece of evidence Commerce relied upon in making its circumvention finding.[59]

Commerce Position: We agree with the petitioner. We correctly followed the statutory intent under section 781(b)(3) of the Act with respect to examining both changes in the pattern of trade and increased imports. With respect to the former, we found in the *Preliminary Determination* that Macao Commercial had expressly stated, both in the sixth administrative review and in this anti-circumvention inquiry, that it set up the flow of trade of innerspring materials from China to Macao in order to designate Macau as the country of origin for shipment to countries with antidumping duty orders on innerspring units from China.[60] We confirmed this by examining ITC DataWeb import data, which showed a substantial increase in imports of innersprings from Macau since the imposition of the *China Innerspring Units Order*.[61] Macao Commercial's argument that the HTSUS numbers used for our data evaluation encompass merchandise other than innerspring units is unsupported. As noted by the petitioner, HTSUS category 9404.29.9010 was the relevant classification for uncovered innerspring units in 2010.[62] Similarly, in 2011, this HTSUS classification was modified; 9404.29.9010 was eliminated and the classification for uncovered innerspring units was further broken out between 9404.29.9005 (Uncovered innerspring units: for use in a crib or toddler bed) and 9404.29.9011 (Uncovered innerspring units: Other).[63] The latter classification, HTSUS 9404.29.9011, constitutes non-crib or toddler uncovered innerspring units, or essentially adult-sized uncovered innerspring units.[64] HTSUS 9404.29.9011 is the category under which most innersprings from Macau entered, and it shows a massive increase in imports, from $526,527 in 2011, to $4,003,331 in 2015.[65] We find such a massive increase in imports of innersprings from Macau to be indicative of circumvention. Macao Commercial's argument about HTS 7223.00.00 (the category for steel wire) not being an appropriate reference is similarly unconvincing. Macao Commercial's sole argument in this regard is that the HTS category does not specify end use. In fact, however, this is the very HTS number under which Macao Commercial reported that it imports the steel wire it uses to make innersprings.[66]

---

[58] *Id.*
[59] *Id.* at 11.
[60] *See* PDM at 17; *see also* AR6 Factual Information Memo at Attachment 1, page 3 and Initial Response Part 1 at 4-5, 8.
[61] *See* PDM at 17; *see also* Memorandum to the File, "Innerspring Units Import Data," dated November 16, 2016.
[62] *See* the petitioner's Rebuttal Brief at 10.
[63] *Id.*
[64] *Id.*
[65] *See* Memorandum to the File, "Innerspring Units Import Data," dated November 16, 2016.
[66] *See* First Supplemental Response at 52-53.

Comment 5: Macao Commercial's Use of Non-Chinese Origin Steel Wire

Macao Commercial:

- While Macao Commercial has sourced from China the raw materials and consumables used for manufacturing its innersprings in Macau, it has also sourced some of its raw materials from other countries. Commerce has not provided any legal basis that would justify assessing antidumping duties on innersprings manufactured by Macao Commercial using raw materials without regard to their quantity or materiality, especially where, as is the case here, the predominant raw material input of such innersprings is currently of non-Chinese-origin.[67]

The petitioner:

- Commerce's determination to assess duties on Macao Commercial's innerspring units produced from Chinese-origin materials and/or components is valid.[68]
- Macao Commercial has provided no cite to its statement that the predominant raw material is currently non-Chinese origin, and its statement conflicts with record information.[69] What Macao Commercial actually stated in its questionnaire response differs materially from these statements in its case brief regarding the sources of its raw materials.[70]

Commerce Position: We agree with the petitioner and find that Macao Commercial's assertions that it sources raw materials from other countries, including the predominant raw material steel wire, not to be supported by the record evidence. As a preliminary matter, Macao Commercial does not dispute that it sources raw materials and components from China. Specifically, Macao Commercial stated in its initial questionnaire response that it "manufacturers its innersprings in Macao strictly from raw materials and consumables imported from China."[71] In its case brief, Macao Commercial restates that it sources raw materials and components from China, but also asserts that it imports steel wire from countries other than China.[72] Macao Commercial cites to no factual information on the record to support its assertion. Therefore, we find Macao Commercial's arguments regarding its asserted use of non-Chinese origin raw materials to be unsupported by the record and do not require any modification to our affirmative circumvention finding.

---

[67] *See* Macao Commercial Case Brief at 18-19.
[68] *See* the petitioner's Rebuttal Brief at 13.
[69] *Id.* at 12.
[70] *Id*.
[71] *See* Initial Response Part 1 at 4; *see also* First Supplemental Response at 6, 34, and 44.
[72] *See* Macao Commercial Case Brief at 18-19.

IX. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. We recommend finding, based on the analysis and findings detailed above and in the *Preliminary Determination*, that innersprings assembled or completed in Macau by the Macao Commercial Group from Chinese-sourced innerspring components and/or materials, are circumventing the *China Innerspring Units Order*. If this recommendation is accepted, we will publish the final determination in these inquiries in the *Federal Register*.

☒ Agree

☐ Disagree

12/14/2018

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