processed pursuant to the FTZ Act and the Board’s regulations; and, 

Whereas, the Board adopts the findings and recommendation of the examiner’s report, and finds that the requirements of the FTZ Act and Board’s regulations are satisfied, and that the proposal is in the public interest; 

Now, therefore, the Board hereby orders: 

That this application to reorganize FTZ 205 under the alternative site framework is approved, subject to the FTZ Act and the Board’s regulations, including Section 400.28, to the Board’s standard 2,000-acre activation limit for the overall general-purpose zone project, and to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 1 through 4 if not activated by October 31, 2016. 

Signed at Washington, DC, this 13th day of October 2011. 

Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.
Shanghai Fangjia Industry Co., Ltd., Shanghai Aosen Furniture Co., Ltd. and received an untimely Q&V questionnaire response from Wanfengtong Nueevedr (Furniture) Manufacture Co., Ltd./Dongguan Wanfengtong Industry Co., Ltd. Seven additional companies or company groupings also submitted Q&V questionnaire responses. From March through May 2011, the Department received separate rate certifications and applications from 73 companies and company groupings. In addition, during that period, the Department received requests from Dalian Huafeng Furniture Group Co., Ltd.; the Dorbest Group; Fine Furniture (Shanghai) Limited; and Guangzhou Maria Yee Furnishings Ltd., Pyla HK Limited, and Maria Yee, Inc. (collectively, “Maria Yee”) to be treated as voluntary respondents.

On January 31, and March 14, 2011, Petitioners submitted comments on the Department’s process of selecting mandatory respondents. Given its limited resources, and the fact that an administrative review was requested for 183 companies/company groupings, on March 30, 2011, the Department decided to individually examine the following companies, based upon the Q&V data: (1) The Dorbest Group; and (2) the Shing Mark Group, which consists of Shing Mark Enterprise Co., Ltd., Carven Industries Limited (BVI), Carven Industries Limited (HK), Dongguan Zhenxin Furniture Co., Ltd., and Dongguan Yongpeng Furniture Co., Ltd.

On March 30, 2011, the Department issued the antidumping questionnaire to the Dorbest Group and the Shing Mark Group, and made the questionnaire available to the voluntary respondents.

* The Department did not accept the untimely information. See letter to Wanfengtong Nueevedr (Furniture) Manufacture Co., Ltd. from Abdelali Elouaradia, Director, Office 4, AD/CVD Operations, dated March 28, 2011.

* These companies are: (1) Guangzhou Maria Yee Furnishings Ltd.; Pyla HK Ltd.; Maria Yee, Inc.; (2) Jiangmen Kinwai Furniture Decoration Co., Ltd.; (3) Jiedong Lohouse Furniture Co., Ltd.; (4) Putian Jieying Furniture F.; (5) Shanghai Jian Pu Export & Import Co., Ltd.; (6) Zhongshan Golden King Furniture Industrial Co., Ltd.; and (7) Sheng Jing Wood Products (Beijing) Co., Ltd.

* The Dorbest Group consists of Rui Feng Woodwork Co., Ltd., Rui Feng Lumber Development Co., Ltd., Dorbest Ltd., Rui Feng Woodwork (Dongguan) Co., Ltd., and Rui Feng Lumber Development (Shenzhen) Co., Ltd.


From March through June 2011, a number of interested parties withdrew their review requests for all but 22 companies/company groupings. All review requests were withdrawn for the mandatory respondents the Dorbest Group and the Shing Mark Group.


On June 20, 2011, Petitioners submitted factual information from the first new shipper review of wooden bedroom furniture from the PRC pertaining to the margin calculated for Shenyang Kunyu Wood Industry Co., Ltd.

On June 22, 2011, the Department issued a letter to Zhanjiang Sunwin Arts & Crafts Co., Ltd. (“Sunwin”), a company that reported it made no shipments of subject merchandise to the United States during the POR, requesting more information regarding its claim that it changed its name to Guangdong Sunwin Green Furniture Industry Group Co., Ltd. On July 5, 2011, Sunwin submitted its response to the letter.

On August 12, and August 26, 2011, the Department released CBP data and documents related to potential period of review entries of subject merchandise from the following companies claiming no sales or shipments of subject merchandise: (1) Baigou Crafts Factory of Fengkai; (2) Locke Furniture Factory; Kai Chan Furniture Co., Ltd.; Kai Chan (Hong Kong) Enterprise Ltd.; Taiwan Kai Chan Co., Ltd, (collectively, “Locke Furniture”); and (3) Sunwin. On August 25, and September 2, 2011, Petitioners submitted comments on the CBP data and documents. On September 2, 2011, Sunwin submitted comments on the CBP data and requested additional time to submit its separate rate information.

**Scope of the Order**

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

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

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

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

**A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.**
chests of drawers,\textsuperscript{14} chests,\textsuperscript{13} door chests,\textsuperscript{16} chiffoniers,\textsuperscript{17} hutches,\textsuperscript{18} and armoires;\textsuperscript{19} (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list. The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and frames; (3) framing office furniture, such as desks, standup desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;\textsuperscript{20} (9) jewelry armories;\textsuperscript{21} (10) cheval mirrors;\textsuperscript{22} (11) certain metal parts;\textsuperscript{23} (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds\textsuperscript{24} and (14) toy boxes.\textsuperscript{25}


Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, i.e., a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which is required to be one of a jewelry cabinet and is wide featuring a series of drawers and with or without shelves that typically sits on another piece of furniture consistent with the above list.

Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.22

Upholstered beds that are completely upholstered, i.e., containing filling material and completely covered in genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

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

Each room must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (‘‘ASTM’’) standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children’s items such as toys, books, and playthings. See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part, 74 FR 8506 (February 25, 2009). As used here, ‘‘wooden canopies for beds’’ means wooden canopies for beds that do not possess the essential character of wooden bedroom furniture.

Imports of subject merchandise are classified under subheadings 4903.50.9042 and 4903.50.9045 of the U.S. Harmonized Tariff Schedule (‘‘HTSUS’’) as ‘‘wooden * * * beds’’ and under subheading 4903.50.9080 of the HTSUS as ‘‘other * * * wooden furniture of a kind used in the bedroom.’’ In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 4903.50.9042 or 4903.50.9045 of the HTSUS as ‘‘parts of wood.’’ Subject merchandise may also be entered under subheadings 4903.50.9041, 4903.60.8081, or 4903.20.0018. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as ‘‘glass mirrors * * * framed.’’ The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Partial Final Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Because all requesting parties withdrew their respective requests for an administrative review of the following entities within 90 days of the date of publication of the notice of initiation, the Department is rescinding this review with respect to these entities:

- Alexandre International Corp.;
- Southern Art Development Ltd.;
- Alexandre Furniture (Shenzhen) Co., Ltd.;
- Southern Art Furniture Factory;
- Art Heritage International, Ltd.;
- Super Art Furniture Co., Ltd.;
- Artwork Metal & Plastic Co., Ltd.;
- Jibson Industries Ltd., Always Loyal International;
- Billy Wood Industrial (Dong Guan) Co., Ltd.;
- Great Union Industrial (Dongguan) Co., Ltd.;
- Time Faith Ltd.;
- Changshu HTC Import & Export Co., Ltd.;
- Cheng Meng Furniture (PTE) Ltd.;
- Cheng Meng Decoration & Furniture (Suzhou) Co., Ltd.;
- Chuan Fa Furniture Factory.

Imports of subject merchandise are classified under subheadings 4903.50.9042 and 4903.50.9045 of the U.S. Harmonized Tariff Schedule (‘‘HTSUS’’) as ‘‘wooden * * * beds’’ and under subheading 4903.50.9080 of the HTSUS as ‘‘other * * * wooden furniture of a kind used in the bedroom.’’ In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheadings 4903.50.9042 or 4903.50.9045 of the HTSUS as ‘‘parts of wood.’’ Subject merchandise may also be entered under subheadings 4903.50.9041, 4903.60.8081, or 4903.20.0018. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as ‘‘glass mirrors * * * framed.’’ The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification.

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- Southern Art Development Ltd.;
- Alexandre Furniture (Shenzhen) Co., Ltd.;
- Southern Art Furniture Factory;
- Art Heritage International, Ltd.;
- Super Art Furniture Co., Ltd.;
- Artwork Metal & Plastic Co., Ltd.;
- Jibson Industries Ltd., Always Loyal International;
- Billy Wood Industrial (Dong Guan) Co., Ltd.;
- Great Union Industrial (Dongguan) Co., Ltd.;
- Time Faith Ltd.;
- Changshu HTC Import & Export Co., Ltd.;
- Cheng Meng Furniture (PTE) Ltd.;
- Cheng Meng Decoration & Furniture (Suzhou) Co., Ltd.;
- Chuan Fa Furniture Factory.

Imports of subject merchandise are classified under subheadings 4903.50.9042 and 4903.50.9045 of the U.S. Harmonized Tariff Schedule (‘‘HTSUS’’) as ‘‘wooden * * * beds’’ and under subheading 4903.50.9080 of the HTSUS as ‘‘other * * * wooden furniture of a kind used in the bedroom.’’ In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheadings 4903.50.9042 or 4903.50.9045 of the HTSUS as ‘‘parts of wood.’’ Subject merchandise may also be entered under subheadings 4903.50.9041, 4903.60.8081, or 4903.20.0018. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as ‘‘glass mirrors * * * framed.’’ The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Partial Final Rescission of Review
The Department will issue assessment instructions under undergoing a new shipper review covering the period January 1, 2010 through December 31, 2010.

AD/CVD Operations from Rebecca Pandolph, through Howard Smith, Program Manager, Office 4, Elouaradia, Director, Office 4, AD/CVD Operations

Successor-in-interest to Dalian Huafeng Furniture Group Co., Ltd. 27

Huafeng Furniture Co., Ltd. and Dalian Huafeng Furniture Group Co., Ltd. 27

However, in the administrative review just prior to this review, the Department determined that Dalian Huafeng Furniture Group Co., Ltd. was the successor-in-interest to Dalian Huafeng Furniture Group Co., Ltd. See Memorandum from Abdelali Elouaradia, Director, Office 4, AD/CVD Operations through Howard Smith, Program Manager, Office 4, AD/CVD Operations from Rebecca Pandolph, International Trade Compliance Analyst, AD/CVD Operations, Office 4 regarding, “Successor-in-Interest,” dated March 11, 2011.

27 The Department initiated reviews of Dalian Huafeng Furniture Group Co., Ltd. in accordance with 19 CFR 903.1 (2007). 28 Dongguan Yujia Furniture Co., Ltd. is undergoing a new shipper review covering the period January 1, 2010 through December 31, 2010. The Department will issue assessment instructions for Dongguan Yujia Furniture Co., Ltd. at the completion of the new shipper review.

28 Dongguan Yujia Furniture Co., Ltd. is undergoing a new shipper review covering the period January 1, 2010 through December 31, 2010. The Department will issue assessment instructions for Dongguan Yujia Furniture Co., Ltd. at the completion of the new shipper review.
administrative review of Shenzhen Forest Furniture Co., Ltd. and Shenzhen Wonderful Furniture Co., Ltd. (collectively, “Shenzhen”) on June 9, 2011.29 The 90-day deadline established by 19 CFR 351.213(d)(1) for withdrawing review requests was May 31, 2011. However, 19 CFR 351.213(d)(1) states that the Secretary may extend this time limit if the Secretary finds it reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend the 90-day deadline, the Department has recently announced that it will not accept withdrawals of review requests after the 90-day deadline except in extraordinary circumstances.30 Because (1) the Department did not notify parties to this review, prior to Acme’s request for a review of Shenzhen, that it would not accept withdrawals of review requests after the 90-day deadline except in extraordinary circumstances, and (2) the Department has allowed parties, in this review and other proceedings, to withdraw review requests after the 90-day deadline for withdrawing review requests despite there being no extraordinary circumstances,31 the Department has decided to extend the time limit for withdrawing the review request for Shenzhen. However, consistent with the recent announcement regarding withdrawals of review requests, in segments of this proceeding with anniversary months after August 2011, the Department will not consider extending the 90-day deadline for withdrawing review requests unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal of its review request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.32 Because all parties who requested the review of Shenzhen have subsequently withdrawn their requests, in accordance with 19 CFR 351.213(d)(1), we are also rescinding this review of the antidumping duty order with respect to Shenzhen.

Further, for the following companies for which all requesting parties withdrew their respective requests for an administrative review within 90 days of the date of publication of the notice of initiation, but which were part of the PRC-wide entity during the POR, the Department intends to rescind the review in the final results:

- Brother Furniture Manufacturing Co., Ltd.33
- C.F. Kent Co., Inc.
- C.F. Kent Hospitality, Inc.
- Champion Sun Industries Limited
- Contact Co., Ltd.
- Denny’s Furniture Associates Corp.
- Denny’s International Co., Ltd.
- Der Cheng Furniture Co., Ltd.
- Der Cheng Wooden Works
- Dong Guan Golden Fortune Houseware Co., Ltd.34
- Dongguan Chunsan Wood Products Co., Ltd.35
- Dongguan Hua Ban Furniture Co., Ltd.36
- DongGuan Sundart Timber Products Co., Ltd.
- Ever Spring Furniture Company Ltd.37
- Evershine Enterprise Co.
- Fleetwood Fine Furniture LP
- Fujian Putian Jinggong Furniture Co., Ltd.
- Gainwell Industries Limited
- Green River Wood (Dongguan) Ltd.38

30 Because Brother Furniture Manufacturing Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

31 Because Dong Guan Golden Fortune Houseware Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

32 Because Dongguan Chunsan Wood Products Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

33 Because Dongguan Hua Ban Furniture Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

34 Because Dongguan Chunsan Wood Products Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

35 Because Dongguan Hua Ban Furniture Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.

36 Because Ever Spring Furniture Company Ltd.: S.Y.C. Family Enterprise Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results), and has not filed a separate rate application to establish its eligibility for a separate rate in this review, the Department is treating this company as part of the PRC-wide entity.
requesting that it provide any information that contradicted the no-shipment claims, and obtained entry documents from CBP.\textsuperscript{49} After examining record information, we have preliminarily determined that three of the seven companies, (1) Baigou Crafts Factory of Fengkai, (2) Locke Furniture, and (3) Sunwin, had shipments of subject merchandise that entered the United States during the POR.\textsuperscript{50}

Since record evidence does not contradict the no-shipment claims of the following companies, the Department intends to rescind this administrative review with respect to these companies, pursuant to 19 CFR 351.213(d)(3):

- Hangzhou Cadman Trading Co., Ltd.
- Dongguan Huangsheng Furniture Co., Ltd.
- Golden Well International (HK) Ltd.
- Zhejiang Tianyi Scientific and Educational Equipment Co., Ltd.

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (“NME”) country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (“the Act”), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding have contested NME treatment. Accordingly, the Department has continued to treat the PRC as an NME country in this review.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department’s policy to assign all exporters of subject merchandise in a NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both de jure and de facto governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the Final Determination of Sales at Less Than Fair Value: Sparklers From the People’s Republic of China, 56 FR 20588 (May 6, 1991) (“Sparklers”), as further developed in Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China, 59 FR 22585, 22586–87 (May 2, 1994) (“Silicon Carbide”).

However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People’s Republic of China, 64 FR 71104, 71105 (December 20, 1999) (where the respondent was wholly foreign-owned and thus qualified for a separate rate).

Separate Rate Recipients

Of the 73 companies or company groupings that had submitted separate applications or certifications, all but one request for review of these companies have been withdrawn. The Tube-Smith Group is the only company that has submitted separate rate information for which there still remains a request for review. The Tube-Smith Group reported that it is wholly-owned by individuals or companies located in a market economy. The record indicates that the Tube-Smith Group is wholly foreign-owned and the Department has no evidence indicating that it is under the control of the PRC governments.\textsuperscript{51} Accordingly, the Department has preliminarily granted a separate rate to the Tube-Smith Group.


\textsuperscript{49} See Memorandum to Abdul Elouaradia, Director, Office 4, AD/CVD Operations from Rebecca Pandolph, International Trade Compliance Analyst, AD/CVD Operations, Office 4, regarding “Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People’s Republic of China: Analysis of No Sales/Shipment Claims Made by Certain Companies” dated concurrently with this notice (“No Shipments Memorandum”).

Margin for Separate Rate Recipient Not Individually Examined

We note that the statute and the Department’s regulations do not directly address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777(A)(c)(2) of the Act. The Department’s practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight-average the rates for the companies selected for examination excluding zero and de minimis rates and rates based entirely on adverse facts available (“AFA”). In the instant review, however, as discussed above, the Department is rescinding the review of the two entities selected as mandatory respondents and no other companies were selected for individual examination. Thus, there were no company-specific margins calculated in this review. Additionally, as discussed below, the rate for the PRC-wide entity is based on total AFA.

While the statute does not specifically address this particular set of circumstances, the Department has generally looked to section 735(c)(5) of the Act for guidance when calculating the rate for respondents we did not examine in an administrative review. Section 735(c)(5)(A) of the Act instructs the Department not to calculate an all-others rate using any zero or de minimis margins or any margins based entirely on facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, de minimis, or based entirely on facts available, we may use “any reasonable method” for assigning the rate to non-selected respondents. Consistent with Department practice, we preliminarily find that a reasonable method for assigning the rate to non-selected respondents is to use the most recent rate calculated for the non-selected company in question, unless we calculated in a more recent review a rate for any company that was not zero, de minimis or based entirely on facts available. Therefore, the Department has preliminarily assigned a rate of 41.75 percent to the Tube-Smith Group. This rate is the most recently calculated rate that is not zero or de minimis and not based entirely on facts available. Also, this rate is for a period that is more recent than the period for which the Tube-Smith Group was assigned a rate. Companies Not Receiving a Separate Rate

The following 14 companies and company groupings for which the Department initiated the instant review did not provide a separate rate certification or application:

- Dongguan Boi Ten Furniture Co., Ltd.
- Dongguan Grand Style Furniture Co., Ltd.; Hong Kong Da Zhi Furniture Co., Ltd.
- Dongguan Mu Si Furniture Co., Ltd.
- Hainan Jong Bao Lumber Co., Ltd.; Jibbon Enterprise Co., Ltd.
- Kuan Lin Furniture (Dong Guan) Co., Ltd.; Kuan Lin Furniture Factory; Kuan Lin Furniture Co., Ltd.
- Kunshan Lee Wood Product Co., Ltd.
- Meikangchi (Nantong) Furniture Company Ltd.
- Nantong Dongfang Orient Furniture Co., Ltd.
- Shanghai Fangjia Industry Co. Ltd.
- Winny Overseas, Ltd.; Zhongsan Winny Furniture Ltd.; Winny Universal Ltd.
- Zhong Shan Fullwin Furniture Co., Ltd.
- Zhongshan Gainwell Furniture Co. Ltd.

The companies listed above, which were named in the Initiation Notice, were notified in that notice that they must timely submit separate rate applications or separate rate certifications in order to qualify for a separate rate. Additionally, the Initiation Notice identified the Web site address where the separate rate certification and the separate rate application could be found. Since each of the companies listed above did not provide separate rate information, they have failed to demonstrate their eligibility for separate rate status. As a result, the Department is treating these PRC exporters as part of the PRC-wide entity.

Also, we have preliminarily found that (1) Baigou Crafts Factory of Fengkai, (2) Locke Furniture Factory, and (3) Sunwin, shipped subject merchandise during the POR, despite their claims to the contrary. Because these companies did not file a timely separate rate certification or application and thereby failed to provide separate rate information, they have failed to demonstrate their eligibility for separate rate status. As a result, the Department is treating these three companies as part of the PRC-wide entity. Use of Facts Available and AFA

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if: (1) Necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act provides that the Department “shall not decline to consider information that is submitted by an interested party and is necessary to an affirmative determination but which does not meet all applicable requirements established by the administering authority” if the information is timely, can be verified, is not so incomplete that it cannot be used,


53 See No Shipments Memorandum.
and if the interested party acted to the best of its ability in providing the information. Where all of those conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Application of Total AFA to the PRC-Wide Entity

In the Initiation Notice, the Department stated that if one of the companies for which this review has been initiated “does not qualify for a separate rate, all other exporters of wooden bedroom furniture from the PRC that have not qualified for a separate rate are deemed to be covered by this review as part of a single PRC entity.”56 As noted above, not all of the companies for which this review was initiated have qualified for a separate rate; as a result, the PRC-wide entity is now under review.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Specifically, Shanghai Fangjia Industry Co., Ltd., which we are treating as part of the PRC-wide entity, did not respond to the Department’s request for Q&V data. We preliminarily determine that the PRC-wide entity has withheld information requested by the Department. Thus, pursuant to sections 776(a)(2)(A) (withholds requested information) and (C) (significantly impedes a proceeding) of the Act, the Department has preliminarily based the dumping margin of the PRC-wide entity on the facts otherwise available on the record. Furthermore, the PRC-wide entity’s refusal to provide the requested information constitutes circumstances under which it is reasonable to conclude that less than full cooperation has been shown. See Nippon Steel Corporation v. United States, 337 F.3d 1373, 1383 (Fed. Cir. 2003) (Nippon Steel) where the Court of Appeals for the Federal Circuit (“CAFC”) explained that the Department need not show intentional conduct existed on the part of the respondent, but merely that a “failure to cooperate to the best of a respondent’s ability” existed (i.e., information was not provided “under circumstances in which it is reasonable to conclude that less than full cooperation has been shown”). Hence, pursuant to section 776(b) of the Act, the Department has determined that, when selecting from among the facts otherwise available, an adverse inference is warranted with respect to the PRC-wide entity.

Selection of an AFA Rate for the PRC-Wide Entity

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. The Department’s practice is to select an AFA rate that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner” and that ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”57 Specifically, the Department’s practice in selecting a total AFA rate in administrative reviews is to use the highest rate on the record of the proceeding which, to the extent practicable, can be corroborated (assuming the rate is based on secondary information).58

The Court of International Trade (“CIT”) and the CAFC have affirmed decisions to select the highest margin from any prior segment of the proceeding as the AFA rate on numerous occasions.59 Therefore, as AFA, the Department has preliminarily assigned the PRC-wide entity a dumping margin of 216.01 percent. This margin, which is from the 2004–2005 new shipper review of wooden bedroom furniture from the PRC, is the highest dumping margin on the record of any segment of this proceeding.60

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corrobamate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.61 Corroboration means that the Department will satisfy itself that the secondary information to be used has probative value.62 To corrobamate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.63 Independent sources used to corrobamate such information may include, for example, published price lists, official import statistics and customs data, and information obtained from interested

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56 Initiation Notice, 76 FR at 10882 n.10.
57 See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan, 63 FR 8909, 8911 (February 23, 1998); see also Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review: Final Results of the Eleventh New Shipper Review, 70 FR 69937, 69939 (November 18, 2005) and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103, 316, 836, 487 (1994).
58 See Glycine from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 74 FR 15930, 15934 (April 8, 2009) (unchanged in the final results); see also Fujian Lianfa Forestry Co., Ltd. v. United States, 638 F. Supp. 2d 1325, 1336 (Cl. Int’l Trade 2009) (“Commerce may, of course, begin its total AFA selection process by defaulting to the highest rate in any segment of the proceeding, but that selection must then be corroborated, to the extent practicable.”).
59 See, e.g., NSK Ltd. v. United States, 346 F. Supp. 2d 1312, 1335 (Cl. Int’l Trade 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in the investigation); Kompass Food Trading Int’l v. United States, 24 CIT 678, 683–84 (2000) (affirming a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and Shanghai Taosen Int’l Trading Co., Ltd. v. United States, 360 F. Supp. 2d 1339, 1348 (Cl. Int’l Trade 2005) (affirming a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).
61 See SAA at 870.
62 Id.
parties during the particular investigation.\textsuperscript{64}

The 216.01 AFA rate that the Department is using in this review is a company-specific rate calculated in the 2004–2005 New Shipper Review of the wooden bedroom furniture order.\textsuperscript{65} No additional information has been presented in the current review which calls into question the reliability of the information. Thus, we have determined this information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. See Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company’s uncharacteristic business expense resulting in an unusually high margin). Similarly, the Department does not apply a margin that has been discredited. See D&L Supply Co. v. United States, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (ruling that the Department will not use a margin that has been judicially invalidated).

Because there are no mandatory respondents in this review for which individual margins are calculated, there are no transaction specific margins with which to corroborate the 216.01 rate. Accordingly, the Department must look to secondary information to corroborate this rate.

In the two most recently completed administrative reviews in this proceeding, the Department compared transaction-specific margins calculated for the mandatory respondents with the 216.01 percent rate calculated in the 2004–2005 New Shipper Review and found that the 216.01 percent margin was within the range of the margins calculated for the mandatory respondents.\textsuperscript{66} Because the dumping margins used to corroborate the AFA rate in the two most recently completed reviews did not reflect unusually high dumping margins relative to the calculated rates determined for the cooperating respondents in those reviews, the Department was satisfied that the dumping margins used for corroborative purposes reflected commercial reality because they were based upon real transactions that occurred during the POR and were subject to verification by the Department. Since the 216.01 percent margin was within the range of transaction-specific margins on the record of the two prior administrative reviews, the Department determined that the 216.01 percent margin continued to be relevant for use as an AFA rate for the PRC-wide entity in those administrative reviews. As there are no comments or evidence on the record to indicate that there have been significant changes in the industry since the final results of the two most recently completed administrative reviews and there are no comments or evidence on the record of this review that question the relevancy of the 216.01 rate, the Department has determined that the 216.01 percent margin continues to be relevant for use as an AFA rate for the PRC-wide entity.

As the adverse margin is both reliable and relevant, the Department has determined that it has probative value. Accordingly, the Department has determined that this rate meets the corroboration criterion established in section 776(c) of the Act.

\textbf{Preliminary Results of Review}

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2010 through December 31, 2010:

\begin{center}
\begin{tabular}{lll}
\hline
Exporter & Antidumping duty margin (percent) \\
\hline
Tube-Smith Enterprises (ZhangZhou) Co., Ltd.; Tube-Smith Enterprises (Haimen) Co., Ltd.; and Billionworth Enterprises, Ltd & 41.75 \\
PRC-Wide Entity & 216.01 \\
\hline
\end{tabular}
\end{center}

\textbf{Comments}

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal comments must be limited to the issues raised in the written comments and may be filed no later than 5 days after the time limit for filing case briefs see 19 CFR 351.309(d). Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of the administrative review, which will include the results of its analysis of issues raised in the briefs, within 120 days of publication of these preliminary results, in accordance with 19 CFR 351.213(h)(1) unless the time limit is extended.

\textbf{Assessment}

Pursuant to 19 CFR 351.212, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise exported by the Tubo-Smith group and the PRC-wide entity at the rates assigned to these entities in the final results of this review. The Department intends to issue these assessment instructions, as well as instructions for the companies for which the Department intends to rescind this review, directly to CBP 15 days after publication of the final results of this review.

For the companies for which the Department has rescinded this review (see the companies listed under “Partial Final Rescission of Review” above) which had a separate rate granted in a previously completed segment of this

\textsuperscript{64} See Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan, 68 FR 35627, 35629 (June 16, 2003), unchanged in final determination, 68 FR 62560; Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada, 70 FR 12181, 12183–84 (March 11, 2005).
proceeding that was in effect during the instant review period, the Department intends to issue appropriate assessment instructions directly to CBP 15 days after the publication of this preliminary notice in the Federal Register. For these companies, antidumping duties shall be assessed on POR entries subject to the separate rates at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

For the companies for which the Department intends to rescind the individual review of the company in the final results, but which are part of the PRC-wide entity during the instant review period (i.e., have not established their eligibility for a separate rate), the Department will issue assessment instructions 15 days after publication of the final results of this review. These companies are as follows:

- Brother Furniture Manufacturing Co., Ltd.
- C.F. Kent Co., Inc.
- C.F. Kent Hospitality, Inc.
- Champion Sun Industries Limited
- Contact Co., Ltd.
- Denny’s Furniture Associates Corp.
- Denny’s International Co., Ltd.
- Der Cheng Furniture Co., Ltd.
- Der Cheng Wooden Works
- Dong Guan Golden Fortune Houseware Co., Ltd.
- Dongguan Chunsan Wood Products Co., Ltd.
- Dongguan Hua Ban Furniture Co., Ltd.

are subject to the PRC-wide rate. Assessment instructions for 2010 entries will be not be issued until completion of the instant review.

- DongGuan Sundart Timber Products Co., Ltd.
- Ever Spring Furniture Company Ltd.
- Evershine Enterprise Co.
- Fleetwood Fine Furniture LP
- Fujian Putian Jingdong Furniture Co., Ltd.
- Gainwell Industries Limited
- Green River Wood (Dongguan) Ltd.
- Guangdong Gainwell Industrial Furniture Co., Ltd.
- Hong Kong Jingbi Group
- Huasen Furniture Co., Ltd.
- Jiang Furniture Co., Ltd.
- King Kei Trading Company Limited
- King’s Way Furniture Industries Co., Ltd.
- Kingsyear Ltd.
- Longkou Huangshan Furniture Factory
- MoonArt International Inc.
- MoonArt Furniture Group
- Ningbo Fubang Furniture Industries Company Ltd.
- Ningbo Techninwood Furniture Industries Limited
- Northeast Lumber Co., Ltd.
- Passwell Wood Corporation
- S.Y.C. Family Enterprise Co., Ltd.
- Senyuan Furniture Group
- Shanghai Aosen Furniture Co., Ltd.
- Shanghai Hospitality Product Mfg., Co., Ltd.
- Shanghai Industries Group
- Shanghai Kent Furniture Co., Ltd.
- Shanghai Season Industry & Commerce Co., Ltd.
- Shanghai Zhiyi (Jiaoshun) Furniture Co., Ltd.
- Shanghai Zhiyi Furniture and Decoration Co., Ltd.
- Shaoxing Mingxing Furniture Co., Ltd.
- Starwood Furniture Manufacturing Co., Ltd.
- Sundart International, Ltd.
- Techniwood (Macao Commercial Offshore) Limited
- Tradewinds International Enterprise Ltd.
- Trendex Industries Ltd.

76 Nanjing Jardine Enterprise, Ltd.
76 Nanjing Nunnfu Furniture Co., Ltd.
76 Nantong Wangzhuang Furniture Co., Ltd.
76 Ningbo Fubang Furniture Industries Limited
76 Ningbo Furniture Industries Company Ltd.
76 Ningbo Techninwood Furniture Industries Limited
77 Shanghai Aosen Furniture Co., Ltd.
78 Shanghai Hospitality Product Mfg., Co., Ltd.
78 Shanghai Industries Group
78 Shanghai Kent Furniture Co., Ltd.
78 Shanghai Season Industry & Commerce Co., Ltd.
78 Shanghai Zhiyi (Jiaoshun) Furniture Co., Ltd.
78 Shanghai Zhiyi Furniture and Decoration Co., Ltd.
78 Shaoxing Mingxing Furniture Co., Ltd.
79 Starwood Furniture Manufacturing Co., Ltd.
79 Sundart International, Ltd.
79 Techniwood (Macao Commercial Offshore) Limited
79 Tradewinds International Enterprise Ltd.
79 Trendex Industries Ltd.
Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(1) and (a)(2)(C) of the Act: (1) For all respondents receiving a separate rate, the cash deposit rate will be that rate established in the final results of this review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate established in the final results of this review; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied the non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing these preliminary results of administrative review in accordance with section 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).


Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–27280 Filed 10–21–11; 8:45 am]
BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Policy Concerning Assessment of Antidumping Duties.

SUMMARY: After consideration of public comments, the Department of Commerce (“the Department”) is hereby adopting a refinement in its practice with respect to the rate at which it instructs U.S. Customs and Border Protection (“CBP”) to liquidate certain non-reviewed entries. Specifically, the Department is refining its practice to instruct CBP to liquidate such entries at the non-market economy (“NME”)–rate.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, Special Assistant, China/NME Unit, Office of Antidumping and Countervailing Operations, Import Administration, U.S. Department of Commerce, at 202–482–1394.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 2011, the Department proposed a refinement to its practice regarding the rate at which it instructs CBP to liquidate certain entries from non-reviewed exporters. See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 34046 [June 10, 2011] (“Proposed Policy”). As explained in the Proposed Policy, in administrative reviews of antidumping duty (“AD”) orders covering merchandise produced in NME countries, importers will sometimes declare in their entry documentation a cash deposit rate that is associated with a company which has a company-specific rate, as opposed to the NME-wide rate, but the sales underlying the particular entry are not reported to or reviewed by the Department in the course of the administrative review covering that company. As a result, there may be suspended entries to which the Department’s final review results do not apply. Previously, in such situations, it was the Department’s practice to instruct CBP to assess AD duties at the cash deposit rate in effect at the time of entry for such entries of merchandise.

In response to the Proposed Policy, the Department received comments from thirteen parties. After careful consideration of these comments, the Department has determined to implement the proposed refinement in practice. The Department will instruct CBP to apply the NME-wide rate to entries suspended at a reviewed exporter’s rate, but which are not reported to or reviewed by the Department during the administrative review process. For further detail on what entries this policy affects, see the “Applicability” section below.

Final Refinement in Practice

In AD proceedings, the Department establishes a cash deposit rate for each company subject to the investigation or review. In NME cases, if an exporter does not receive a separate rate, the NME-wide rate applies as the cash deposit rate at the time of entry to entries of merchandise exported. Previously, for merchandise entered at the separate rate applicable to a reviewed exporter, but which were not reported to the Department in the review and thus not covered by the final results of the review, the Department instructed CBP to liquidate such entries at the cash deposit rate in effect at the time of entry.

With the publication of this notice, the Department implements a policy refinement regarding the rate at which it will instruct CBP to liquidate such non-reviewed entries. For entries that are not reported in the reviewed company’s U.S. sales databases submitted to the Department during an administrative review, or otherwise determined not covered by the review (i.e., the reviewed exporter claims no shipments), the Department will instruct CBP to liquidate such entries at the NME-wide rate as opposed to the company-specific rate declared by the importer at the time of entry.