

64. Tax Refunds for Enterprises Located in the ZHTDZ
65. Provision of Electricity for LTAR to FIEs Located in the Nanhai District of Foshan City
66. Nanhai District Grants to HNTes
67. Government Provision of Land-Use Rights to Enterprises Located in the Yongji Circular Economic Park for LTAR
68. Support for Disabled Persons
69. Awards of Nanning Municipality for Advancement of Science and Technology
70. Award of Nanning Municipality for Industrial Enterprises Completing Energy Saving Tasks
71. Membership Fee Refunds for Members of Rescue Sub-team of Guangxi Emergency and Rescue Association for Production Safety
72. Funds for Demonstration Bases of Introducing Foreign Intellectual Property
73. Funds of Nanning Municipality for Project Preliminary Works
74. Special Funds of Nanning Municipality for Key Planning Project of Professionals Cultivation
75. Funds of Guangxi Autonomous Region for Energy Saving and Emission Reduction
76. Awards of Nanning High-tech Zone for Annual top Tax Payers of Industrial Enterprises
77. Awarding Funds of Guangxi Autonomous Region for Renovation of Energy-Saving Technologies
78. National Special Funds for Emission of Main Pollutants (Assistance for Construction of Automatic Surveillance of Key Pollutant Sources)
79. Support for the Tax Refund Difference Program
80. Export Credit Subsidy Program: Export Seller's Credits
81. Export Credit Subsidy Program: Export Buyer's Credits
82. Government Purchase of Aluminum Extrusions for More Than Adequate Remuneration
83. 2009 Special Fund
84. Special Fund Subsidy for Export-Oriented Economy
85. Bonus for 2009 Excellent Sewage Treatment Management Companies
86. Special Fund Subsidy for Industrial Development
87. Special Fund for 2010 Provincial-Level Foreign Economy and Foreign Trade Development
88. Special Fund for Environment Protection
89. Special Guiding Fund
90. Special Fund for Foreign Trade
91. Special Fund for Industrial Development
92. Special Guiding Fund for Key Industries
93. Social Insurance Subsidy
94. Migrant Workers Training Subsidy
95. Technical Reform Subsidy for Changzhou City
96. Income Tax Rewards for Key Enterprises
97. Returns for Land-Transferring Fee
98. State Key Technology Renovation Project Fund

99. Supporting Funds for Trade with the Minority Nationalities and Production of Goods Specially Needs by Minority Nationalities
100. Provision of Steam Coal for LTAR
- G. *Ad Valorem* Rate For Non-Selected Companies Under Review
- H. *Ad Valorem* Rate For Non-Cooperative Companies Under Review

#### I. Analysis Of Comments

##### *General Subsidy Issues*

Comment 1: Application of the CVD Law to the PRC

Comment 2: Countervailing Subsidies Received Prior to January 1, 2005

##### *Program-Specific Issues*

Comment 3: Whether There Is a Link Between Policy Lending and Respondents' Bank Loans

Comment 4: Whether PRC Commercial Banks Are Government Authorities

Comment 5: Computation of Benchmark Loan Interest Rate

Comment 6 Whether State Ownership Makes an Entity a Government Authority

Comment 7: Whether Chinese Communist Party (CCP) Affiliations/Activities by Company Officials Makes the Company a Government Authority

Comment 8: Whether the GOC Responded to the Best of Its Ability Regarding Ownership and CCP Affiliation for Primary Aluminum Producers and Provided Sufficient Evidence to Find that Some Producers Were Not Government Authorities

Comment 9: Benchmark Price for Primary Aluminum

Comment 10: Prices Must Be Properly Weight-averaged

Comment 11: Whether the Provision of Primary Aluminum Is Specific

Comment 12: Use of a Tier-One Price for the Provision of Primary Aluminum

Comment 13: Whether Certain Programs Were Limited to an Enterprise or Industry

Comment 14: Whether the Department's Investigation of Uninitiated Programs is Unlawful

##### *Company-Specific Issues*

Comment 15: Attribution of Subsidies Received by the Alnan Companies

Comment 16: Allocation of Grant Program for Alnan Aluminum

Comment 17: Benefits Received by Alnan Aluminum Prior to 2012

Comment 18: Whether Alnan Foil Is an Input Producer and Subsidies Received by Alnan Foil Should Be Attributed to Alnan Aluminum

Comment 19: Whether Grants Received by Shanglin Industry Should be Attributed to Alnan Aluminum

Comment 20: Errors in Alnan Aluminum's Trade Financing Calculation

##### *Other Issues*

Comment 21: Whether to Collect Duties or to Lift Any Suspension and Liquidate Without Regard to Duties for Permasteelisa, Jangho, and Streamlight

Comment 22: Correct Spelling of Company Name

#### J. Conclusion

[FR Doc. 2014-30659 Filed 12-30-14; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-928]

#### Uncovered Innerspring Units From the People's Republic of China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a request from Leggett & Platt Incorporated ("Petitioner"), the Department of Commerce ("the Department") is initiating an anticircumvention inquiry pursuant to section 781(b) of the Tariff Act of 1930, as amended ("the Act"), to determine whether certain imports are circumventing the antidumping duty order on uncovered innerspring units ("innerspring units") from the People's Republic of China ("PRC").<sup>1</sup>

**DATES:** *Effective Date:* December 31, 2014.

#### FOR FURTHER INFORMATION CONTACT:

Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0116.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 31, 2007, Petitioner filed a petition seeking imposition of antidumping duties on imports of uncovered innerspring units from, among other countries, the PRC.<sup>2</sup> Following completion of an investigation by the Department and the U.S. International Trade Commission ("the Commission"), the Department imposed an antidumping duty order on subject merchandise.<sup>3</sup>

In the fourth administrative review of the Order,<sup>4</sup> Petitioner requested that the

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

<sup>2</sup> The petition also included imports of uncovered innerspring units from South Africa and the Socialist Republic of Vietnam. See *Uncovered Innerspring Units from the People's Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 73 FR 4817 (January 28, 2008).

<sup>3</sup> Order, 74 FR at 7662.

<sup>4</sup> The fourth administrative review covered the period of review ("POR") February 1, 2012, through

Department review Goldon Bedding Manufacturing (M) Sdn. Bhd (“Goldon”).<sup>5</sup> The Department initiated the review on March 29, 2013<sup>6</sup> and sent questionnaires to the named respondents, including Goldon. On August 19, 2013, in response to the Department’s supplemental questionnaire, Goldon acknowledged that it imports innerspring unit components from the PRC for use in the production of innerspring units in Malaysia.<sup>7</sup> On September 19, 2014, the Department applied adverse facts available to all of Goldon’s PRC-origin subject merchandise upon determining that Goldon did not cooperate to the best of its ability in the review.<sup>8</sup>

On November 7, 2014, pursuant to section 781(b) of the Act and section 351.225(h) of the Department’s regulations, Petitioner submitted a request for the Department to initiate an anticircumvention inquiry of Goldon to determine whether Goldon’s innerspring units completed and assembled in Malaysia from PRC-origin components constitute circumvention of the *Order*.<sup>9</sup> In its request, Petitioner contends that Goldon, by its own admission, imports innerspring unit components from the PRC to Malaysia, further assembles these components into uncovered innerspring units, and exports the assembled innerspring units to the United States in the form of subject merchandise.<sup>10</sup> Petitioner argues that Goldon’s operations constitute minor further assembly in a third country, *i.e.*, Malaysia.

### 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 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.

### Initiation of Circumvention Proceeding

Section 781(b)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, the Department will also evaluate whether: (1) The process of assembly or completion in the other foreign country is minor or insignificant; (2) 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 (3) action is appropriate to prevent evasion of such an order or finding. As discussed below, Petitioner has

provided evidence with respect to these criteria.

### A. Merchandise of the Same Class or Kind

Petitioner argues that the innerspring units that Goldon completes or assembles in Malaysia and subsequently ships to the United States are of the same class or kind as that subject to the *Order*. Petitioner contends that there is no question that the uncovered innerspring units that Goldon exports to the United States meet the physical characteristics that define the scope of the order.<sup>11</sup> Goldon acknowledged this fact in the fourth administrative review when it stated: “[y]es, merchandise as stated in the database are the subject merchandise that {*sic*} comprised from locally source {*sic*} material and imported material from PRC.”<sup>12</sup>

### B. Completion of Merchandise in a Foreign Country

Petitioner observes that the *Order* clearly indicates that innerspring units are assembled from three key components: Steel wire coils, helical wires, and in certain cases border rods.<sup>13</sup> Petitioner argues that Goldon admitted that it imports the key inputs used in the production of innerspring units and provided invoices describing the components as “spring mattress coils,” “wire,” “steel frame,” and “steel strips.”<sup>14</sup> Furthermore, Petitioner contends that Goldon indicated that 70 percent of its materials used in the production of innerspring units are sourced from the PRC, the country with respect to which the *Order* applies, and that it “shipped the completed merchandise into the U.S.”<sup>15</sup>

### C. Minor or Insignificant Process

Under section 781(b)(2) of the Act, the Department is required to consider five factors to determine whether the process of assembly or completion of

January 31, 2013. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 19197 (March 29, 2013) (“*Initiation Notice*”).

<sup>5</sup> The Department notes that Petitioner requested an administrative review and anticircumvention inquiry of “Goldon Bedding Manufacturing Sdn Bhd.” However, during the 2012–2013 administrative review, Goldon provided its business license which indicated that the company’s official name is “Goldon Bedding Manufacturing (M) Sdn Bhd.” See *Uncovered Innerspring Units from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 56338, 56339 (September 19, 2014) and accompanying Issues and Decision Memorandum (“*Final Results*”), at 1.

<sup>6</sup> See *Initiation Notice*, 78 FR at 19208.

<sup>7</sup> See *Uncovered Innerspring Units from China: Request for a Circumvention Inquiry*, dated November 7, 2014, at 3 (“*Circumvention Request*”).

<sup>8</sup> See *Final Results*, 79 FR at 56339.

<sup>9</sup> See generally *Circumvention Request*.

<sup>10</sup> *Id.*, at 3.

<sup>11</sup> *Id.*, at 7–8.

<sup>12</sup> *Id.*, at 8; and Exhibit 1, at 2.

<sup>13</sup> See *Circumvention Request* at 8. The Commission also noted that innerspring coils and border rods are major components of an innerspring unit. See *Uncovered Innerspring Units from South Africa and Vietnam*, USITC Pub. 4051, Inv. Nos. 731–TA–1141–1142 at I–11 (December 2008) (hereinafter, “*USITC Uncovered Innersprings Report*”). In its final determination regarding imports of uncovered innersprings from the PRC, the Commission adopted the findings and analyses in its determinations and views regarding subject imports from South Africa and Vietnam with respect to the domestic like product, the domestic industry, cumulation, and material injury. *Uncovered Innerspring Units from China*, USITC Pub. 4061, Inv. No. 731–TA–1140 at 3 and I–1 (February 2009).

<sup>14</sup> See *Circumvention Request*, at 9; and Exhibit 2, at Attachment 2.

<sup>15</sup> *Id.*, at 9, 15 and Exhibit 2, at Attachment 2.

merchandise in a foreign country is minor or insignificant. Petitioner believes that an examination of these factors indicates that Goldon's process of assembly and completion of innerspring units in Malaysia is not significant.

#### (1) Level of Investment

Petitioner states that the process employed to assemble innerspring components into innerspring units is relatively simple and requires only limited investment and labor, and that the start-up investment costs and the barriers to entry into this type of assembly operation (*i.e.*, manual or semi-automated) are low.<sup>16</sup> Petitioner asserts that in the most basic, fully-manual operation, coils are assembled manually using a wooden or steel jig in which the coils (continuous or bonnell)<sup>17</sup> are hand-loaded, then hand-laced with helical wire and finished by clipping the border rods to the unit.<sup>18</sup> Petitioner posits that the cost of a new wooden (or steel) jig is approximately \$200–\$400.<sup>19</sup> Petitioner argues that the level of investment would also be low if Goldon relies on a semi-automated assembly operation where a machine is used to assemble the rows of coils.<sup>20</sup>

#### (2) Level of Research and Development

Petitioner is not aware that Goldon performs any research and development related to the assembly and/or production of innerspring units.<sup>21</sup> Moreover, Petitioner states that it would not expect Goldon to incur any research and development expenses related to its innerspring assembly operations.<sup>22</sup>

#### (3) Nature of the Production Process

According to Petitioner, the manufacturing process for assembling innerspring units from imported components is relatively simple and does not require significant start-up costs, sophisticated machinery and

inputs, or substantial labor.<sup>23</sup> This process, as described by Goldon, is very similar to the process found to be insignificant by the Department in the prior circumvention inquiry on this *Order*.<sup>24</sup>

#### (4) Extent of Production in the Malaysia

Petitioner states that Goldon only has one facility for the production of innerspring units.<sup>25</sup> Goldon indicated that six to seven workers are involved in the assembly of innerspring units, with another one or two workers devoted to packing.<sup>26</sup> Petitioner contends that this indicates that the portion of Goldon's production facility attributable to assembly operations is small.<sup>27</sup>

#### (5) Value of Processing in Malaysia as Compared to Uncovered Innerspring Units Imported Into the United States

Petitioner asserts that the value of assembly processing performed in Malaysia represents a small portion of the total value of the innerspring units imported into the United States.<sup>28</sup> Petitioner believes Goldon's assembly operations likely rely on relatively unskilled, low wage employees.<sup>29</sup> Thus, these assembly operations involve minimal additional labor costs.<sup>30</sup> Petitioner asserts that, by any standard, the assembly operations represent an insignificant portion of the total value.<sup>31</sup>

#### D. Value of Merchandise Produced in PRC

Petitioner argues that the value of the components that Goldon imports from the PRC for further assembly in Malaysia into subject merchandise is a significant portion of the total value of the innerspring units exported to the United States.<sup>32</sup> As Petitioner noted previously, innerspring coils, helical wires, and border rods are the key components of an innerspring unit. Petitioner explains that they also constitute a significant portion of the

overall costs of an innerspring unit.<sup>33</sup> Petitioner does not have access to other PRC innerspring unit producer/exporter costs. Therefore, it conducted an analysis related to the production costs of various innerspring unit models at its own facility in Guangzhou, PRC. Petitioner believes that its operation (and costs) in the PRC are representative of the operations (and costs) of other PRC innerspring unit producers/exporters, as it is the largest producer of innersprings in the PRC.<sup>34</sup> According to Petitioner's analysis of its own production costs in the PRC, the total value of these innerspring components compose a significant portion of the total value of an innerspring unit.<sup>35</sup>

#### E. Additional Factors for Consideration

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the *Order*. Petitioner believes that an examination of these factors supports finding that Goldon's Malaysian exports of innerspring units should be within the scope of the *Order*.<sup>36</sup>

#### (1) Pattern of Trade

Goldon has stated that while it was originally set up to supply the domestic market, in 2011 it changed its business strategy to serve the United States.<sup>37</sup> As described by Goldon, this strategy consists of assembling innersprings from 70 percent PRC-origin components and 30 percent Malaysian components, and exporting the assembled innerspring units to the United States.<sup>38</sup>

Based on official U.S. import data, Petitioner contends that imports of uncovered innerspring units from Malaysia have increased dramatically since the *Order* was imposed.<sup>39</sup> Petitioner provided a chart that illustrated the U.S. annual imports from

<sup>16</sup> See Circumvention Request, at 10.

<sup>17</sup> Bonnell coils, the most commonly used type of coils in innerspring units, have an hour-glass shape which tapers inward from top to center and then outward from the center to bottom. Bonnell coils are generally the lowest priced units and the type of coil generally used in imported innerspring units. Continuous coils have entire rows of continuous coils formed from a single piece of wire. For a more detailed description of the types of innerspring coils, see *USITC Uncovered Innersprings Report* at I–8 to I–10.

<sup>18</sup> See Circumvention Request, at 10. A somewhat more advanced assembly operation may involve manual assembly using a wooden or steel jig in which the coils are hand-set, and a lacing machine is used to feed the helical to join the rows, and then the borders are manually clipped to the unit. *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*, at 11.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Circumvention Request, at 11; see also *Uncovered Innerspring Units from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 79 FR 3345 (January 21, 2014) ("*Reztec Final Determination*").

<sup>25</sup> See Circumvention Inquiry, at 12.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*, at 13.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* There are virtually no additional energy costs given that the machines, if utilized, are quite basic. The only additional material inputs (besides the coils, which represent the single largest cost of an innerspring unit) are steel wire for lacing and border clips. *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*, at 14.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*, at 14–15.

<sup>36</sup> Petitioner did not analyze or submit evidence concerning affiliation under section 781(b)(3)(B) of the Act.

<sup>37</sup> *Id.*, at 15.

<sup>38</sup> *Id.*

<sup>39</sup> See Circumvention Inquiry, at 15–16. Petitioner states that until 2011, U.S. imports of uncovered innerspring units were properly classified and entered the United States under harmonized tariff schedule ("HTS") 9404.29.9010 ("uncovered innerspring units"). In 2011, the HTS classification for uncovered innerspring units was refined and further broken out to provide a separate ten-digit classification for innerspring units used in cribs and toddler beds. Thus, HTS 9409.29.9010 was eliminated and replaced with 9404.29.9005 (Uncovered innerspring units: For use in a crib or toddler bed) and 9404.29.9011 (Uncovered innerspring units: Other).

Malaysia under the relevant HTSUS subheadings.<sup>40</sup> Petitioner states that prior to 2009, there were virtually no imports of uncovered innerspring units from Malaysia to the United States.<sup>41</sup> However, according to the chart, subject imports from Malaysia to the United States have steadily increased: 185,917 pieces were imported in 2009; 312,317 pieces were imported in 2010; 344,388 pieces were imported in 2011; 132,017 pieces were imported in 2012; and 52,051 pieces were imported in 2013.<sup>42</sup> Petitioner claims that the lower overall entry quantities over the last two years are due to the previous anticircumvention inquiry filed by Petitioner in 2012.<sup>43</sup> Petitioner notes that quantities of imports after 2012, while not as high as the immediately preceding years, are still significant compared to before the *Order* was in place.<sup>44</sup>

Furthermore, Petitioner contends that Malaysia's official import statistics indicated that imports from the PRC of one of the key components in innerspring units (*i.e.*, coils) have increased substantially since the *Order* was imposed.<sup>45</sup> Petitioner provided a chart of import data related to Malaysia's imports of coils from the PRC over the last several years, as well as the current year under HTS 7320.99.000 (other springs and leaves for springs, of iron/steel, kilograms ("kgs")). This chart shows an increase of imported coils from 2,995,519 kgs in 2007 to 11,972,478 kgs in 2011, and a gradual decrease to 5,218,789 kgs for the current year.<sup>46</sup> Again, Petitioner notes that imports have somewhat declined starting in 2012, which may be due to the Department's determination in the previous anticircumvention inquiry filed by Petitioner.<sup>47</sup> Nevertheless, Petitioner contends that imports of coils from the PRC remain higher than before the *Order* was in place.<sup>48</sup>

#### (2) Increase of Subject Imports From the PRC to Malaysia After the Investigation Initiation

Petitioner did not provide any evidence regarding an increase in subject imports (*i.e.*, completed

uncovered innerspring units) from the PRC to Malaysia after the initiation of the investigation. However, as noted above, Petitioner provided information that imports of one of the key components of innerspring units from PRC to Malaysia increased significantly during this time.

#### F. Whether Action Is Appropriate To Prevent Evasion of the Order

Based on the information provided by Petitioner, and for the reasons provided in the analysis below, the Department determines that initiating an anticircumvention inquiry is appropriate to identify any potential evasion of the *Order*.

#### Analysis of the Request

Based on our analysis of Petitioner's circumvention inquiry request, the Department determines that Petitioner has satisfied the criteria under section 781(b)(1) of the Act to warrant an initiation of a formal circumvention inquiry.<sup>49</sup> In accordance with section 351.225(e) of the Department's regulations, the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of a circumvention inquiry.

In accordance with section 351.225(l)(2) of the Department's regulations, if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise. This circumvention inquiry covers Goldon. If, within sufficient time, the Department receives a formal request from an interested party regarding potential circumvention of the *Order* by other Malaysian companies, we will consider conducting additional inquiries concurrently.

The Department will establish a schedule for questionnaires and comments on the issues. In accordance with section 351.225(f)(5) of the Department's regulations, the Department intends to issue its final determination within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act. This notice is published in accordance with section 351.225(f) of the Department's regulations.

Dated: December 22, 2014.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-827]

#### **Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission; 2012-2013**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on certain cased pencils (pencils) from the People's Republic of China (PRC).<sup>1</sup> The period of review (POR) is December 1, 2012, through November 30, 2013. This review covers two exporters of subject merchandise, Shandong Rongxin Import & Export Co., Ltd. (Rongxin) and Shanghai Foreign Trade Co., Ltd. (SFTC).

We preliminarily determine that Rongxin is not eligible for a separate rate, and, thus, remains part of the PRC-wide entity. In addition, we are rescinding the review with respect to SFTC. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective Date:* December 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1785.

#### **SUPPLEMENTARY INFORMATION:**

##### **Scope of the Order**

The merchandise subject to the order includes certain cased pencils from the PRC. The subject merchandise is

<sup>1</sup> See *Antidumping Duty Order: Certain Cased Pencils From the People's Republic of China*, 59 FR 66909 (December 28, 1994).

<sup>40</sup> *Id.*, at 17.

<sup>41</sup> *Id.*, at 16.

<sup>42</sup> *Id.*, at 17.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* Petitioner also provided a description of Malaysia's relevant HTS numbers. *Id.*, at Exhibit 7.

<sup>47</sup> *Id.*; see also *Reztec Final Determination*, 79 FR 3345 and accompanying Issues and Decision Memorandum. Petitioner did not submit any Malaysian import statistics regarding imports of helical wires and border rods from the PRC.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*, at 7-17.