

to determine sex ratios, proportion of wild versus hatchery origin, gather scales for age determination and life history strategy, and to obtain fin clips for genetic analysis. Ultimately, these data are being used to guide the placement of hatchery reared CCC coho salmon smolts intended to improve weak or lost year classes in these systems. Requested unintentional mortality for juveniles and smolts of both species is two percent and there is no unintentional mortality requested for adults.

Project 2 involves seasonal sampling of CCC steelhead and CCC coho salmon in Pescadero and San Gregorio creek lagoons to determine their abundance (using mark and recapture techniques), growth rates, and to determine smolt and adult life history information from scales. Sampling in late summer and fall will provide information on relative abundance and growth rates while sampling in spring will provide information on smolt abundance and growth during their rearing phase the previous year as well as the spring of their outmigration. Scales collected from a sub-sample of smolt and adult steelhead will be used to provide an index of where they reared as juveniles and to determine age and growth rates. This project also includes creel surveys at Pescadero Lagoon in order to collect scales and length measurements of adult CCC steelhead captured by fisherman during the catch and release fishing season. Data gathered from this project will contribute to the overall understanding and importance of lagoon habitats for these species. In particular, data gathered from Pescadero Lagoon may provide federal and state agencies with important information on the year-to-year impact of re-occurring fish kills during sand bar breach events on the overall production of salmonids in this system. Requested unintentional mortality for juveniles and smolts of both species is two percent and there is no unintentional mortality requested for adults.

Dated: August 11, 2009.

Therese Conant,

Acting Division Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1641]

Expansion of Foreign-Trade Zone 57, Charlotte, North Carolina, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the North Carolina Department of Commerce, grantee of Foreign-Trade Zone 57, submitted an application to the Board for authority to expand its zone to include an additional site (Site 16) in the Charlotte, North Carolina area, adjacent to the Charlotte Customs and Border Protection port of entry (FTZ Docket 62-2008, filed 10/28/08);

Whereas, notice inviting public comment was given in the Federal Register (73 FR 65583, 11/4/08), and the application has been processed pursuant to the FTZ Act and the Board's regulations;

Whereas, on April 24, 2009, the grant of authority was reissued to the Charlotte Regional Partnership, Inc. (Board Order 1613, 74 FR 21622, 05/8/09); and,

Whereas, the Board adopts the findings and recommendations 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:

The application to expand FTZ 57 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and subject to a sunset provision that would terminate authority for Site 16 on August 31, 2014, if no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 5th day of August 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-19676 Filed 8-14-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Order No. 1637

Expansion of Foreign-Trade Zone 8, Toledo, Ohio

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Toledo-Lucas County Port Authority, grantee of Foreign-Trade Zone No. 8, submitted an application to the Board for authority to expand Site 1 at the Port of Toledo Complex, within the Toledo/Sandusky Customs and Border Protection port of entry (FTZ Docket 64-2008, filed 12/2/2008);

Whereas, notice inviting public comment was given in the **Federal Register** (73 FR 78289, 12/22/2008) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

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

Now, therefore, the Board hereby orders:

The application to expand FTZ 8 - Site 1 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 5th day of August 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-19673 Filed 8-14-09; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-890

Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews

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

SUMMARY: On February 9, 2009, the Department of Commerce (“Department”) published its preliminary results and partial rescission in the antidumping duty administrative review and new shipper reviews (“NSRs”) of wooden bedroom furniture from the People’s Republic of China (“PRC”). The period of review (“POR”) for the administrative review and the new shipper reviews is January 1, 2007, through December 31, 2007. In the administrative review, we have determined that the participating mandatory respondent, Guangdong Yihua Timber Industry Co., Ltd. (“Yihua Timber”), made sales in the United States at prices below normal value. With respect to the remaining respondents in the administrative review, we have determined that these entities have provided sufficient evidence demonstrating that they are separate from the PRC–entity and, with the exception of Orient International Holding Shanghai Foreign Trading Co. Ltd. (“Orient International”), we have assigned a margin based on the rate calculated for Yihua Timber. For the NSRs, the Department also reviewed two exporter/producers, Golden Well International (HK), Ltd./Zhangzhou XYM Furniture Product Co., Ltd. (“Golden Well”) and Dongguan Sunshine Furniture Co., Ltd./Dongguan Sunshine Furniture Co., Ltd. (“Sunshine”). We invited interested parties to comment on our preliminary results in these reviews. Based on our analysis of the comments we received in these reviews, we made certain changes to our calculations for Yihua Timber and for the new shippers. The final dumping margins for these reviews are listed in the “Final Results Margins” section below.

EFFECTIVE DATE: August 17, 2009.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Sergio Balbontin, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–4474 and (202) 482–6478, respectively.

Background

The Department published its preliminary results on February 9, 2009. See *Wooden Bedroom Furniture From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of Administrative Review*, 74 FR 6372 (February 9, 2009) (“*Preliminary Results*”). We invited parties to

comment on the *Preliminary Results*. On February 24, 2009, and March 4, 2009, the Department sent Yihua Timber the Fourth Supplemental Questionnaire and addendum, respectively. On March 17, 2009, Yihua Timber provided its response to the Fourth Supplemental Questionnaire. On February 24, 2009, March 10, 2009, March 20, 2009, and March 25, 2009, Yihua Timber provided information on the weights of its products. On March 6, 2009, we received publicly available surrogate value information from Yihua Timber and American Furniture Manufacturers Committee for Legal Trade and Vaughan–Bassett Furniture Company (“Petitioners”). On March 16, 2009, we received rebuttal comments on the publicly available surrogate value information from Yihua Timber and the Petitioners.

On April 20, 2009, the Department extended the deadline for the final results of the administrative and new shipper reviews to August 10, 2009. See *Wooden Bedroom Furniture from the People’s Republic of China: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 17951 (April 20, 2009).

The Department conducted verification of Yihua Timber, Yihua Timber’s U.S. subsidiary New Classic Home Furnishings, Inc.’s (“New Classic”), and Sunshine’s data from April 6, 2009, to April 16, 2009, and April 22, 2009, to April 24, 2009. See “Verification” section, below, for additional information. On May 18, 2009, we requested that Yihua Timber submit revised U.S. sales and factors of production (“FOP”) databases pursuant to the minor corrections presented at Yihua Timber’s and New Classic’s verification. On May 22, 2009, Yihua Timber provided the revised U.S. sales and FOP databases.

On May 21, 2009 Yihua Timber submitted unsolicited, untimely new factual information, which the Department rejected on May 26, 2009. See Letter from the Department, regarding “Wooden Bedroom Furniture from the People’s Republic of China: Rejection of New Factual Information,” dated May 26, 2009.

Interested parties submitted case and rebuttal briefs on May 27, 2009, and June 4, 2009, respectively. On May 28, 2009, we rejected Yihua Timber’s case brief due to untimely new information included in Yihua Timber’s case brief. See Letter from the Department, regarding “Wooden Bedroom Furniture from the People’s Republic of China: Rejection of Case Brief,” dated May 28, 2009. On June 6, 2009, Yihua Timber

resubmitted its case brief with the new information redacted. On June 10, 2009, we rejected the rebuttal brief of Lifestyle Enterprise, Inc., Trade Masters of Texas, Inc., and Emerald Home Furnishings, LLC (collectively “Importers’ Coalition”) and the rebuttal brief of COE, Ltd. due to untimely new arguments included in their rebuttal briefs. See Letters from the Department, regarding “Wooden Bedroom Furniture from the People’s Republic of China: Rejection of New Argument,” dated June 10, 2009. On June 11, 2009, the Importers’ Coalition and COE, Ltd. resubmitted their respective rebuttal briefs with the new arguments redacted. On June 12, 2009, we rejected Yihua Timber’s rebuttal brief due to an untimely new argument included its rebuttal brief. See Letter from the Department, regarding “Wooden Bedroom Furniture from the People’s Republic of China: Rejection of Argument,” dated June 12, 2009. On June 15, 2009, Yihua Timber resubmitted its rebuttal brief with the new argument redacted.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these reviews are addressed in the Memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, “Antidumping Duty Administrative and New Shipper Reviews of Wooden Bedroom Furniture from the People’s Republic of China: Issues and Decision Memorandum for the Final Results of the 2007 Antidumping Duty Administrative and New Shipper Reviews,” dated August 10, 2009, which is hereby adopted by this notice (“Issues and Decision Memorandum”). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit, Main Commerce Building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Period of Review

The POR is January 1, 2007, through December 31, 2007.

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, chessers, chiffoniers, 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,¹ highboys,² lowboys,³ chests of drawers,⁴ chests,⁵ door chests,⁶ chiffoniers,⁷ hutches,⁸ and armoires;⁹ (6) desks,

¹ A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in 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.

² 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).

³ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁴ A chest of drawers is typically a case containing drawers for storing clothing.

⁵ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

⁶ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

⁷ A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

⁸ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

⁹ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used

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 futon frames; (3) office furniture, such as desks, stand-up 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;¹⁰ (9) jewelry armoires;¹¹ (10) cheval mirrors;¹² (11) certain metal

to hold television receivers and/or other audio-visual entertainment systems.

¹⁰ As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

¹¹ Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24" in width, 18" in depth, and 49" in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, dated August 31, 2004. See also *Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part*, 71 FR 38621 (July 7, 2006).

¹² Cheval mirrors are any framed, tiltable mirror with a height in excess of 50" 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 constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See *Wooden Bedroom Furniture From the People's Republic of China: Final Results*

parts;¹³ (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; and (13) upholstered beds.¹⁴

Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as "wooden . . . beds" and under subheading 9403.50.9080 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 9403.50.9040 of the HTSUS as "parts of wood" and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as "glass mirrors . . . framed." This 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.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended ("Act"), we verified the information submitted by Yihua Timber, New Classic, and Sunshine. See Memorandum from Erin Begnal, Program Manager, Office 8 and Sergio Balbontin, International Trade Compliance Analyst, Office 8 to Wendy J. Frankel, Director, Office 8, "Verification of the Sales and Factors of Production Response of Guangdong Yihua Timber Industry Co., Ltd. in the Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China,"

of Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

¹³ 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 the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 9403.90.7000.

¹⁴ Upholstered beds that are completely upholstered, i.e., containing filling material and completely covered in sewn 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 7013 (February 14, 2007).

(May 18, 2009) (“Yihua Timber Verification Report”); *see also* Memorandum from Robert Bolling, Program Manager, Office 4 and Gene Degnan, Acting Program Manager, Office 8 to Wendy J. Frankel, Director, Office 8, “Verification of the U.S. Sales Questionnaire Responses of Guangdong Yihua Timber Industry Co., Ltd. and their U.S. Subsidiary New Classic Home Furnishing, Inc. in the Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People’s Republic of China” (May 18, 2009) (“New Classic Verification Report”), and Memorandum from Erin Begnal, Program Manager, Office 8 and Sergio Balbontin, International Trade Compliance Analyst, Office 8 to Wendy J. Frankel, Director, Office 8, “Verification Report of the Sales and Factors Response of Dongguan Sunshine Furniture Co., Ltd. in the Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People’s Republic of China” (May 7, 2009) (“Sunshine Verification Report”) on file in the CRU. For the verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents. For further details on the verifications, *see* the Yihua Timber Verification Report, New Classic Verification Report, and Sunshine Verification Report.

New Shipper Status

For these final results, no party has contested the *bona fides* of either Golden Well’s or Sunshine’s sales and we continue to find, as in the *Preliminary Results*, that both Golden Well and Sunshine have met the requirements to qualify as a new shipper during the POR and that their sales of wooden bedroom furniture to the United States are appropriate transactions for a new shipper.

Changes Since the Preliminary Results

Based on an analysis of the comments received, the Department has made certain changes in the margin calculations. For the final results, the Department has made the following changes:

Surrogate Value Issues

- The Department revised the surrogate value for Yihua Timber’s poplar, ash, and pine, veneers, and plywood using World Trade Atlas (“WTA”) data rather than Philippine National Statistics Office (“NSO”) data as used in the *Preliminary Results*. *See* Issues and Decision Memorandum at Comment

3. *See also* “Final Results of the 2007 Administrative and New Shipper Reviews of the Antidumping Duty Order on Wooden Bedroom Furniture from the People’s Republic of China: Surrogate Value Memorandum,” dated August 10, 2009 (“SV Memo”).

- The Department revised the surrogate value for Yihua Timber’s plywood using WTA data rather than NSO data as used in the *Preliminary Results*. *See* Issues and Decision Memorandum at Comment 4. *See also* SV Memo.
- The Department revised the surrogate value for Yihua Timber’s medium density fiberboard (“MDF”). *See* Issues and Decision Memorandum at Comment 5.
- The Department revised the surrogate value for Yihua Timber’s particle board. *See* Issues and Decision Memorandum at Comment 8. *See also* SV Memo.
- The Department will continue using the *Camarines Sur* data used in the *Preliminary Results*, to calculate electricity and truck freight; however, we will not inflate this data for the final results. *See* Issues and Decision Memorandum at Comment 10 and 11, respectively. *See also* SV Memo.
- The Department revised the selection of surrogate financial statements. We continued to use the financial statements for the fiscal year ending December 31, 2007, from the following producers: Maitland–Smith Cebu, Inc. (“Maitland–Smith”); Casa Cebuana Incorporated (“Casa Cebuana”); Diretso Design Furniture Inc., (“Diretso”); Global Classic Designs, Inc., (“Global”); and Las Palmas Furniture, Inc., (“Las Palmas”), all of which are Philippine producers of comparable merchandise. In addition, we used the financial statements for the same period from Arkane International Corporation; Giardini Sole Manufacturing and Trading Corporation (“Giardini”); and SCT Furnishing Corporation, also Philippine producers of comparable merchandise. *See* Issues and Decision Memorandum at Comments 14–16 for discussion of financial ratios. *See also* SV Memo.
- The Department made changes from the *Preliminary Results* in calculating the surrogate financial ratios for the following surrogate companies: Maitland–Smith, Casa

Cebuana, Diretso, and Las Palmas. *See* Issues and Decision Memorandum at Comments 14–16 for a discussion of financial ratios. *See also* SV Memo.

Yihua Timber–Specific Issues

- The Department corrected the surrogate value for Yihua Timber’s brokerage and handling charge. *See* Issues and Decision Memorandum at Comment 13.
- The Department adjusted Yihua Timber’s warehousing expense paid to its affiliated party to reflect market value. *See* Issues and Decision Memorandum at Comment 19.
- The Department corrected its preliminary finding of facts available as to Yihua Timber’s FOP weights. *See* Issues and Decision Memorandum at Comment 20.
- The Department is granting Yihua Timber a by–product offset. *See* Issues and Decision Memorandum at Comment 21.
- The Department corrected its preliminary finding of partial adverse facts available as to Yihua Timber’s affiliate (Company A) sales. *See* Issues and Decision Memorandum at Comment 22.
- The Department corrected its preliminary finding of facts available as to Yihua Timber’s inventory carrying costs. *See* Issues and Decision Memorandum at Comment 23.
- The Department corrected Yihua Timber’s transportation expenses with respect to its Channel 1 sales. *See* Issues and Decision Memorandum at Comment 24.
- The Department corrected programming errors as to Yihua Timber’s gross weight, material conversion rates, damaged sales, a miscoded CONNUMU, and recalculation of USDUTYU, CREDITU, and WARRU. *See* Issues and Decision Memorandum at Comment 24.

Separate Rates

In proceedings involving non–market economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See Final Determination of*

Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585 (May 2, 1994).

In the *Preliminary Results*, we stated that the following companies demonstrated their eligibility for separate-rate status: 1) Yihua Timber; 2) Brother Furniture Manufacture Co., Ltd.; 3) Dongguan Mingsheng Furniture Co., Ltd.; 4) Fujian Lianfu Forestry Co., Ltd. aka Fujian Wonder Pacific, Inc. (Dare Group); 5) Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group); 6) Jiangsu Dare Furniture Co., Ltd. (Dare Group); 7) Shenzhen Shen Long Hang Industry Co., Ltd.; 8) Xingli Arts & Crafts Factory of Yangchun; and 9) Zhongshan Gainwell Furniture Co., Ltd. Also, in the *Preliminary Results*, we stated that the new shipper, Sunshine, demonstrated its eligibility for separate-rate status. For these final results, we continue to find that evidence placed on the record of these reviews demonstrates that these companies provided information that shows both a *de jure* and *de facto* absence of government control with respect to their respective exports of the merchandise under review, and, thus are eligible for separate-rate status.

With respect to the following companies not selected for individual examination in this review: 1) COE, Ltd.; 2) Decca Furniture Limited; 3) Dongguan Landmark Furniture Products, Ltd.; 4) Dongguan Yihaiwei Furniture Limited; 5) Hwang Ho International Holdings Limited; 6) Meikangchi (Nantong) Furniture Company, Ltd.; 7) Qingdao Shengchang Wooden Co., Ltd.; 8) Transworld (Zhangzhou) Furniture Co., Ltd.; and 9) Winny Universal, Ltd., Zhongshan Winny Furniture Ltd., Winny Overseas, Ltd., we continue to grant a separate rate to these companies because they are wholly owned by individuals or companies located in a market economy. With respect to the new shipper, Golden Well, we continue to grant it a separate rate because it is wholly owned by individuals or companies located in a market economy. As wholly foreign-owned companies, we have no evidence indicating that these companies are under the control of the PRC. Therefore, a separate-rate analysis is not necessary to determine whether these companies are independent from government control. See *Preliminary Results*. See also *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104–

05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

The following five exporters did not provide, as appropriate, either a separate rate application or certification: 1) Dongguan Bon Ten Furniture Co., Ltd. (“Bon Ten”) (see *Issues and Decision Memorandum at Comment 29*); 2) Dongguan Qingxi Xinyi Craft Furniture Factory (Joyce Art Factory) (“Joyce Art”); 3) Tianjin Sande Fairwood Furniture Co. Ltd. (“Sande”); 4) Yida Co. Ltd., Yitai Worldwide Ltd., Yili Co., Ltd., and Yetbuild Co., Ltd. (collectively “Yida”); and 5) Hamilton & Spill, Ltd. (“Hamilton”), and therefore have not demonstrated their eligibility for separate rate status in this administrative review. In the *Preliminary Results*, we found that Dream Rooms Furniture (Shanghai) Co., Ltd.’s (“Dream Rooms”) separate-rate certification was deficient, and thus, Dream Rooms did not demonstrate its eligibility for separate-rate status in this administrative review. See section 776(a)(2)(D) of the Act. Consequently, for the final results, the Department is continuing to treat Dream Rooms as part of the PRC-wide entity. See *Issues and Decision Memorandum at Comment 30*.

In addition, while we found Orient International Holding Shanghai Foreign Trading Co., Ltd. (“Orient International”) to be part of the PRC-wide entity in the *Preliminary Results*, we are granting Orient International a separate rate for purposes of the final results. However, we continue to find that Orient International did not act to the best of its ability in this administrative review, and thus we have assigned Orient International a rate based on adverse facts available (“AFA”) for the final results. See “Adverse Facts Available” section below. See also *Issues and Decision Memorandum Comment 32*.

Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if necessary information is not on the record or 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, (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 the determination but 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, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information 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. Section 776(b) of the Act also authorizes the Department to use as AFA information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Orient International

In the *Preliminary Results*, we determined that because Orient International ceased participating in this administrative review, Orient International’s information could not be verified. As a result, we found that Orient International did not demonstrate its entitlement to a separate rate and was, therefore, subject to the PRC-wide rate. See *Preliminary Results*. As stated above, for the final results, we no longer find Orient International to be part of the PRC-entity. Orient International’s separate rate certification demonstrates that Orient International provided information that shows both a *de jure* and *de facto* absence of government control with respect to its exports of the merchandise under review, and, thus is eligible for separate-rate status. See *Issues and Decision Memorandum at Comment 32*. However, we find that the application of facts available is warranted. In accordance with sections 776(a)(2)(A) through (D), by not responding to the Department’s questionnaire and

informing the Department that it would no longer participate in the administrative review as a mandatory respondent, we find that Orient International withheld information requested, failed to produce the requested information in a timely manner, significantly impeded the proceeding, and did not allow for verification, as it had ceased cooperating with the Department.

Moreover, pursuant to section 776(b) of the Act, the Department finds that Orient International failed to cooperate to the best of its ability by not providing a questionnaire response that was essential to the calculation of the antidumping duty margin. Orient International was provided an ample amount of time to submit a response to the Department's antidumping duty questionnaire. At no point did Orient International seek clarification from the Department on the specific requests for information, but rather submitted a letter to the Department indicating that it would no longer respond to the Department's requests for information and that it would no longer participate in the proceeding as a mandatory respondent. Because Orient International failed to cooperate with the Department in this matter, we find it appropriate to use an inference that is adverse to the interests of Orient International in selecting from among the facts otherwise available. See section 776(b) of the Act. By doing so, we will ensure that Orient International will not obtain a more favorable result by failing to cooperate had it cooperated fully in this investigation. See *Statement of Administrative Action* accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) at 870 ("SAA"). See also *Issues and Decision Memorandum Comment 32*.

The PRC-Wide Entity

Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the "Final Results Margins" section, below, have overcome that presumption, we are applying a single antidumping rate (*i.e.*, the PRC-wide rate) to all other exporters of subject merchandise from the PRC. These other companies did not demonstrate entitlement to a separate rate. See, *e.g.*, *Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the

respondents that are listed in the "Final Results Margins" section, below.

The Department based the margin for the PRC-wide entity on AFA. See *Preliminary Results*. Pursuant to section 776(a) of the Act, the Department found that because the PRC-wide entity failed to respond to the Department's questionnaires, withheld or failed to provide information in a timely manner or in the form or manner requested by the Department, submitted information that could not be verified, or otherwise impeded the process, it was appropriate to apply a dumping margin for the PRC-wide entity using facts otherwise available on the record. The Department further determined that an adverse inference was appropriate because the PRC-wide entity failed to respond to requests for information and therefore failed to cooperate by not acting to the best of its ability. See "Selection of AFA Rate," below.

Selection of AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c) authorize the Department to 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. In reviews, the Department normally selects, as AFA, the highest rate on the record of any segment of the proceeding. See, *e.g.*, *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504, 19506 (April 21, 2003). The Court of International Trade ("CIT") and the Court of Appeals for the Federal Circuit have consistently upheld the Department's practice in this regard. See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) ("*Rhone Poulenc*"); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a less than fair value investigation); see also *Kompass Food Trading Int'l v. United States*, 24 CIT 678, 680 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen Int'l Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among

the possible sources of information is to ensure that the margin is sufficiently adverse "so as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See, *SAA* at 870; see also *Notice of Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910, 76912 (December 23, 2004); *D&L Supply Co. v. United States*, 113 F.3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin "reflects a common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less." *Rhone Poulenc*, 899 F.2d at 1190. Consistent with the statute, court precedent, and its normal practice, the Department has assigned the rate of 216.01 percent, the highest rate on the record of any segment of the proceeding, a calculated company-specific rate in a new shipper review of wooden bedroom furniture from the PRC, to Orient International and to the PRC-wide entity,¹⁵ as AFA. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004-2005 Semi-Annual New Shipper Reviews*, 71 FR 70739 (December 6, 2006) ("*Final 04-05 New Shipper Reviews*").

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, corroborate 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

¹⁵ Bon Ten, Dream Rooms, Hamilton, Joyce Art, Sande, and Yida are all part of the PRC-wide entity.

review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. See SAA at 870. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in the final determination, *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 62 FR 11825 (March 13, 1997)). Independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. 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 (June 16, 2003) (unchanged in final determination,

Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra High Voltage Ceramic Station Post Insulators from Japan, 68 FR 62560 (November 5, 2003)); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183–84 (March 11, 2005).

The AFA rate that the Department is now using was determined in the published final results of a previous new shipper review. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004–2005 Semi-Annual New Shipper Reviews*, 71 FR 70739, 70741 (December 6, 2006). In that new shipper review, the Department calculated a company-specific rate, which was above the PRC-wide rate established in the investigation. Because this rate is a company-specific calculated rate, we have determined this rate 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 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). To assess the relevancy of the rate used, the Department compared the margin calculations of the mandatory respondent in the instant administrative review with the 216.01 percent calculated rate from the 2004–2005 new shipper review. The Department found that the margin of 216.01 percent was within the range of the margins calculated on the record of the instant administrative review. Because the record of this administrative review contains margins within the range of 216.01 percent, we determine that the rate from the 2004–2005 review continues to be relevant for use in this administrative review.

As the adverse margin is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that this rate meets the corroboration criterion established in section 776(c) of the Act that secondary information have probative value. As a result, the Department determines that the margin is corroborated for the purposes of this administrative review and may reasonably be applied to the PRC-wide entity as AFA.

Final Results Margins

We determine that the following weighted-average percentage margins exist for the POR:

Administrative Review

Exporter	Antidumping Duty Percent Margin
Guangdong Yihua Timber Industry co., Ltd. (a.k.a. Yihua Timber Industry Co., Ltd.)	29.98%
Brother Furniture Manufacture Co., Ltd.	29.98%
COE, Ltd.	29.98%
Decca Furniture Limited	29.98%
Dongguan Landmark Furniture Products Ltd.	29.98%
Dongguan Mingsheng Furniture Co., Ltd.	29.98%
Dongguan Yihaiwei Furniture Limited	29.98%
Fujian Lianfu Forestry Co., Ltd. aka Fujian Wonder Pacific, Inc. (Dare Group)	29.98%
Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group)	29.98%
Jiangsu Dare Furniture Co., Ltd. (Dare Group)	29.98%
Hwang Ho International Holdings Limited	29.98%
Meikangchi (Nantong) Furniture Company Ltd.	29.98%
Orient International Holding Shanghai Foreign Trading Co., Ltd.	216.01%
Qingdao Shengchang Wooden Co., Ltd.	29.98%
Shenzhen Shen Long Hang Industry Co., Ltd.	29.98%
Transworld (Zhangzhou) Furniture Co., Ltd.	29.98%
Winy Universal, Ltd., Zhongshan Winy Furniture Ltd., Winy Overseas, Ltd.	29.98%
Xingli Arts & Crafts Factory of Yangchun	29.98%
Zhongshan Gainwell Furniture Co., Ltd.	29.98%
PRC-Wide Entity ¹⁶	216.01%

¹⁶ Bon Ten, Dream Rooms, Hamilton, Joyce Art, Sande, and Yida are all part of the PRC-wide entity.

New Shipper Review

Exporter / Producer Combination	Antidumping Duty Percent Margin
Golden Well International (HK), Ltd. / Producer: Zhangzhou XYM Furniture Product Co., Ltd.	0%
Dongguan Sunshine Furniture Co., Ltd. /Dongguan Sunshine Furniture Co., Ltd.	0%

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated exporter/importer- (or customer) -specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer- (or customer) -specific assessment rate is *de minimis* (i.e., less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer’s) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash-Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review and new shipper reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: 1) for the exporters listed above, the cash

deposit rate will be the rates shown for those companies; 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 which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 216.01 percent; 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 exporter. These deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (“APOs”) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing these final results and notice in accordance

with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 10, 2009.

Carole Showers,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix

Comment 1: Use of the Philippines as Surrogate Country

Comment 2: Net Import Quantity - Philippines

Comment 3: Surrogate Value for Poplar, Ash and Pine, Veneers and Plywood

Comment 4: Surrogate Value for Plywood

Comment 5: Surrogate Value for Medium Density Fiberboard (MDF)

Comment 6: HS Code for Calculation of the Surrogate Value for Pine

Comment 7: Surrogate Value for Sealer

Comment 8: Surrogate Value for Particle Board

Comment 9: Surrogate Value for Labor

Comment 10: Surrogate Value for Energy

Comment 11: Surrogate Value for Truck Freight

Comment 12: Treatment of Ocean Freight Expense

Comment 13: Treatment of and Surrogate Value for Brokerage & Handling

Comment 14: Selection of Financial Statements

Comment 15: Treatment of Works-in-Progress and Changes in Finished Goods Inventory in Surrogate Financial Ratios

Comment 16: Treatment of Indirect Materials, Indirect Labor & Subcontractor Expenses

Comment 17: Constructed Export Price Offset

Comment 18: Yield Ratio Calculation

Comment 19: Treatment of Warehousing Expense

Comment 20: Treatment of Yihua Timber’s FOP and Gross Weights

Comment 21: By-Product Offset

Comment 22: Yihua Timber Affiliate’s (Company A’s) Sales

Comment 23: Inventory Carrying Costs

Comment 24: Inland Freight for Yihua Timber’s Channel 1 Sales

Comment 25: SAS Programming Changes and Error

Comment 26: Use of Combination Rates

Comment 27: Absorption of Antidumping Duties

Comment 28: Cash Deposit Instruction for Companies that Lost Their Separate Rate

Comment 29: Whether to Rescind the Review with Respect to Dongguan Bon Ten Furniture Co., Ltd.

Comment 30: Whether to Grant Dream Rooms Furniture (Shanghai) Co., Ltd. a Separate Rate

Comment 31: Whether the Department Failed to Timely Initiate the Administrative Review Thereby Erroneously Choosing Orient International as a Mandatory Respondent

Comment 32: Separate Rate Status of Orient International

[FR Doc. E9-19666 Filed 8-14-09; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 34-2009]

Foreign-Trade Zone 49—Newark, New Jersey Area, Application for Subzone Status, The Swatch Group (U.S.) Inc. (Watches, Jewelry Products and Leather Goods), Secaucus, New Jersey

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey, grantee of FTZ 49, requesting special-purpose subzone status for the distribution facility of the Swatch Group (U.S.) Inc. (Swatch), located in Secaucus, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Foreign-Trade Zones Board (15 CFR part 400). It was formally filed on August 7, 2009.

The Swatch facility (56,110 sq. ft., 1 acre, 160 employees) is located at 55 Metro Way, Secaucus, New Jersey. It is used for the receipt, handling, packaging, and distribution of watches, jewelry products, and leather watch cases. All of the products are sourced from abroad and some 10-15% will be exported.

FTZ procedures could exempt Swatch from customs duty payments on the foreign goods exported from the proposed subzone. On domestic sales, the company would be able to defer duty payments until merchandise is shipped from the facility and entered for consumption. Certain logistical/supply chain management efficiencies would also be realized through the use of CBP weekly entry procedures. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

In accordance with the Board's regulations, Claudia Hausler of the FTZ

Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is October 16, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 2, 2009.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230-0002 and in the "Reading Room" section of the Board's Web site, which is accessible via www.trade.gov/ftz. For further information, contact Claudia Hausler at Claudia_Hausler@ita.doc.gov, or (202) 482-1379.

Dated: August 7, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-19677 Filed 8-14-09; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1640]

Grant of Authority for Subzone Status, Hoku Materials, Inc. (Polysilicon), Pocatello, Idaho

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "... the establishment ... of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, Boundary County, Idaho, grantee of FTZ 242, has made application to the Board for authority to establish special-purpose subzone status at the polysilicon manufacturing plant of Hoku Materials, Inc., located in Pocatello, Idaho (FTZ Docket 53-2008, filed 10/03/2008, and amended 12/31/2008);

Whereas, notice inviting public comment has been given in the **Federal Register** (73 FR 59597-59598, 10/09/2008); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that approval of the application, as amended, would be in the public interest, if approval were subject to the condition listed below;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacture of polysilicon at the Hoku Materials, Inc., facility, located in Pocatello, Idaho (Subzone 242A), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28, and also subject to a restriction prohibiting any admission of silicon metal subject to an antidumping or countervailing duty order.

Signed at Washington, DC, this 5th day of August 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-19675 Filed 8-14-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XO99

Incidental Takes of Marine Mammals During Specified Activities; Low-Energy Marine Seismic Survey in the Northwest Atlantic Ocean, August 2009

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act