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November 18, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Multilayered Wood Flooring from
the People's Republic of China

SUMMARY

In response to requests from interested parties, the Department of Commerce (“the Department”) is conducting the first administrative review of the antidumping duty (“AD”) order on multilayered wood flooring (“MLWF”) from the People’s Republic of China (“PRC”) for the period of review (“POR”) May 26, 2011 through November 30, 2012. The Department has preliminarily determined that three respondents, Zhejiang Layo Wood Industry Co., Ltd. (“Layo Wood”), Fine Furniture (Shanghai) Limited (“Fine Furniture”) and Armstrong Wood Products (Kunshan) Co., Ltd. (“Armstrong”), sold subject merchandise in the United States at prices below normal value (“NV”), while another respondent, Nanjing Minglin Wooden Industry Co. Ltd. (“Minglin”) did not sell subject merchandise in the United States at prices below NV.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess AD duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the “Act”).



Background

On December 8, 2011, the Department published in the *Federal Register* an AD order on MLWF from the PRC.¹ On December 3, 2012, the Department published in the *Federal Register* a notice of opportunity to request administrative review on MLWF from the PRC.² Between December 3, 2012, and December 31, 2012, the Department received requests from 49 foreign and domestic interested parties for administrative reviews of MLWF from the PRC. Additionally, on December 31, 2012, the Department received a request from the Coalition for American Hardwood Parity (“CAHP”), the Petitioner in the underlying investigation, to conduct administrative reviews of 95 producers/exporters of MLWF from the PRC, many of which were already the subject of review requests filed by other parties. On January 30, 2013, the Department published in the *Federal Register* a notice of initiation for companies for which a timely request for an administrative review of the applicable AD order was submitted.³

Period of Review

The POR is May 26, 2011 through November 30, 2012. This period corresponds to the period from the date of suspension of liquidation to the end of the month immediately preceding the first anniversary month, which is December 2012.⁴

Extension of Preliminary Results

On August 26, 2013, the Department extended the deadline for the preliminary results by a total of 60 days, to November 1, 2013.⁵

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁶ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department’s practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now November 18, 2013.

¹ See *Multilayered Wood Flooring From the People’s Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 77 FR 71579 (December 3, 2012).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 6291 (January 30, 2013); see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 13633 (February 28, 2013) (“Initiation Notice”).

⁴ See 19 CFR 351.213(e)(1)(ii).

⁵ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, “Multilayered Wood Flooring from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review” (August 26, 2013).

⁶ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

Scope of the Order

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s). Veneer is referred to as a ply when assembled in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or “prefinished” (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (“HDF”), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the HTSUS: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520;

4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.⁷

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the review. When the Department limits the number of exporters examined in a review pursuant to section 777A(c)(2) of the Act, section 782(a) of the Act directs the Department to calculate individual weighted-average dumping margins for companies not initially selected for individual examination that voluntarily provide the information requested of the mandatory respondents if (1) the information is submitted by the due date specified for the mandatory respondents and (2) the number of such companies that have voluntarily provided such information is not so large that individual examination would be unduly burdensome and inhibit the timely completion of the review.

On February 8, 2013, the Department placed on the record CBP data for U.S. imports classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings identified in the scope of the AD order on MLWF from the PRC. At that time, the Department invited interested parties to submit comments regarding the CBP data for use in respondent selection.⁸ On February 15, 2013, the Department received comments on respondent selection from Fine

⁷ On August 28, 2013, in consultation with CBP, the Department added the following HTSUS classification to the AD/CVD module for wood flooring: 9801.00.2500. See Letter to the File from Lilit Astvatsatrian, Case Analyst, Enforcement and Compliance, Office IV, regarding “Multilayered Wood Flooring from the PRC, Modification of the Case Reference File in ACE” (November 18, 2013).

⁸ See Memorandum to All Interested Parties from the Department, regarding “2011-2012 Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China: CBP Data for Respondent Selection” (February 8, 2013).

Furniture and Shanghai Lizhong Wood Products Co., Ltd. / The Lizhong Wood Industry Limited Company of Shanghai (“Lizhong”), as well as the Petitioner.

On March 20, 2013, the Department determined that it was not practicable to examine all 100 companies because this number of respondents was too large to individually examine given the Department’s current resource constraints, pursuant to section 777A(c)(2) of the Act.⁹ Therefore, in accordance with section 777A(c)(2)(B) of the Act, the Department selected the three exporters accounting for the largest volume of MLWF exported from the PRC during the POR (*i.e.*, Armstrong, Fine Furniture and Minglin) based on CBP data. Additionally, Layo Wood filed a timely request for treatment as a voluntary respondent. On June 12, 2013, pursuant to section 782(a) of the Act, the Department determined to select Layo Wood as a voluntary respondent because the additional workload would not be unduly burdensome or inhibit the timely completion of this review.¹⁰

The Department issued its AD questionnaire to Armstrong, Fine Furniture and Minglin on March 22, 2013. The Department received timely submissions to the original questionnaire from Armstrong, Fine Furniture and Minglin, as well as a timely voluntary response from Layo Wood. Between April 12, 2013 and October 31, 2013, all four respondents timely responded to the Department’s original and supplemental questionnaires.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be a non-market economy (“NME”) country.¹¹ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

⁹ See Memorandum to Abdelali Elouaradia, Director, Office 4, Antidumping and Countervailing Duty Operations, through Charles Riggle, Program Manager, Office 4, Antidumping and Countervailing Duty Operations, from Lilit Astvatsatrian and James Martinelli, International Trade Compliance Analysts, Office 4, Antidumping and Countervailing Duty Operations, regarding “Selection of Respondents for the 2011-2012 Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People’s Republic of China” (March 20, 2013).

¹⁰ See Memorandum to Abdelali Elouaradia, Director, Office 4, Antidumping and Countervailing Duty Operations, from James Martinelli, International Trade Compliance Analyst, Office 4, Antidumping and Countervailing Duty Operations, regarding “Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Selection of a Voluntary Respondent” (June 12, 2013).

¹¹ See *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results*, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012).

Separate Rate

There is a rebuttable presumption that all companies within an NME are subject to government control and, thus, should be assessed a single AD rate.¹² In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.¹³ It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.¹⁴ To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,¹⁵ as amplified by *Silicon Carbide*.¹⁶ However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.¹⁷

A. Separate Rate Applicants

In addition to the three mandatory respondents, Armstrong, Fine Furniture, and Minglin, as well as voluntary respondent Layo Wood, the Department received separate rate applications from 13 companies ("Separate Rate Applicants") on whom it initiated a review, and preliminary determines that they demonstrated their eligibility for separate rate.¹⁸ Furthermore, the Department received Separate Rate Certifications from 56 companies that we have preliminarily determined continue to demonstrate eligibility for a separate rate.¹⁹

¹² See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079, 53082 (September 8, 2006); see also *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

¹³ See *Initiation Notice*, 78 FR at 6291.

¹⁴ See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*").

¹⁵ See *id.*

¹⁶ See *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) ("*Silicon Carbide*").

¹⁷ See *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

¹⁸ The Department received Separate Rate Applications from three companies not named in the *Initiation Notice*, *i.e.*, Dunhua Shengda Wood Industry Co., Ltd., Hangzhou Zhengtian Industrial Co., Ltd. and HK Artflor International Trading Co. No party requested a review of these companies. Therefore, the Department is not considering their eligibility for a separate rate in this review.

¹⁹ Additionally, the Department received three Separate Rate Certifications from companies that had a separate rate from the investigation but were not listed in the *Initiation Notice*, *i.e.* Hong Kong Easoon Wood Technology Co., Ltd., Tak Wah Building Material (Suzhou) Co., Ltd. and Tech Wood International Ltd. No party requested a review of these companies. Therefore, the Department has not considered their certifications in this review, and the Department instructed U.S. Customs and Border Protection on January 30, 2013 to automatically liquidate entries exported by these companies pursuant to 19 CFR 351.212(c).

1. Joint Ventures between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

1. Anhui Longhua Bamboo Product Co., Ltd.
2. Benxi Wood Company
3. Fusong Jinlong Wooden Group²⁰
4. Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
5. Scholar Home (Shanghai) New Material Co. Ltd.
6. Shenyang Senwang Wooden Industry Co., Ltd.
7. Zhejiang Fuma Warm Technology Co., Ltd.
8. Zhejiang Yongyu Bamboo Joint-Stock Co., Ltd.

The eight Separate Rate Applicants listed above, as well as Minglin and Layo Wood, provided evidence that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies.²¹ The Department analyzed whether each of these companies has demonstrated an absence of *de jure* and *de facto* government control over its respective export activities.

- a. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.²²

The evidence provided by the Separate Rate Applicants, Minglin and Layo Wood supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.²³

- b. Absence of *De Facto* Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices ("EP") are set by, or are subject to the approval of, a government agency; (2) whether the respondent has

²⁰ The Fusong Jinlong Wooden Group is composed of four companies: Dalian Qianqiu Wooden Product Co., Ltd.; Fusong Jinlong Wooden Group Co., Ltd.; Fusong Jinqiu Wooden Product Co., Ltd.; and Fusong Qianqiu Wooden Products Co., Ltd.,

²¹ See company-specific Separate Rate Applications submitted to the Department between March 26, 2013 and April 2, 2013 ("Separate Rate Applications").

²² See *Sparklers*, 56 FR at 20589.

²³ See Separate Rate Applications.

authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.²⁴ The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by the Separate Rate Applicants, Minglin, and Layo Wood supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies: (1) set their own constructed export prices (“CEP”) or EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.²⁵

Therefore, the evidence placed on the record of this review by the Separate Rate Applicants and the mandatory respondents demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.

2. Wholly Foreign-Owned

1. Fujian Wuyishan Werner Green Industry Co., Ltd
2. Guangdong Fu Lin Timber Technology Limited
3. Kunming Alston (AST) Wood Products Co., Ltd.
4. JiaShan FengYun Timber Company Ltd.
5. Jiaxing Hengtong Wood Co., Ltd.

In addition to Armstrong and Fine Furniture, two of the mandatory respondents, five Separate Rate Applicants in this review provided evidence in their SRA that they are wholly owned by individuals and companies located in ME countries.²⁶ Moreover, the Department has no record evidence indicating that these companies are under the control of the PRC government. For these reasons, it is not necessary for the Department to conduct a separate rate analysis to determine whether the seven companies listed above are independent from government control.²⁷ Therefore, the Department has preliminarily granted a separate rate to the five wholly foreign-owned companies listed above.

²⁴ See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People’s Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

²⁵ See Separate Rate Applications.

²⁶ See *id.*

²⁷ See *Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 26716, 26720 (May 12, 2010), unchanged in *Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725 (October 1, 2010).

B. Separate Rate Certifications

The Department received Separate Rate Certifications from 56 companies that received a separate rate from the investigation and were not selected as mandatory respondents in this review. The evidence placed on the record in this review by these companies demonstrates a continued absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.²⁸ Accordingly, the Department has preliminarily determined that the 56 companies listed in Appendix 1 have demonstrated that they continue to be eligible for a separate rate.

C. No Shipment Certifications

1. Changzhou Hawd Flooring Co. Ltd.
2. Dalian Jiuyuan Wood Industry Co., Ltd.
3. Jiaxing Brilliant Import & Export Co. Ltd.
4. Polywell Global Limited
5. Vicwood Industry (Suzhou) Co., Ltd.

The five companies listed above submitted certifications that they did not ship subject merchandise to the U.S. during the POR.²⁹ The companies that were granted a separate rate from the initial investigation (*i.e.*, Changzhou Hawd Flooring Co. Ltd.; Dalian Jiuyuan Wood Industry Co., Ltd.; Jiaxing Brilliant Import & Export Co., Ltd; and Vicwood Industry (Suzhou) Co., Ltd.) will maintain their current rate and will not be included in the separate rate calculated by this review. Polywell Global Limited, which did not have a separate rate from the investigation, will continue to remain in the PRC-wide entity rate.

D. Companies Maintaining Their Separate Rate

The Department has not granted a separate rate to Power Dekor Group Co., Ltd. (“Power Dekor”) due to a lack of shipments during the POR to analyze for purposes of granting a separate rate. Although Power Dekor had a shipment during the POR of this administrative review, this shipment was previously analyzed in the New Shipper Review conducted for Power Dekor. Therefore, Power Dekor will not be analyzed for the purposes of a separate rate in this review but will maintain the rate it received from its New Shipper Review.³⁰

E. Companies Not Receiving a Separate Rate

²⁸ See company-specific Separate Rate Certifications submitted to the Department between March 12, 2013 and April 2, 2013 (“Separate Rate Certifications”).

²⁹ See company-specific No Shipment Certifications submitted to the Department between December 20, 2012 and March 28, 2013 (“No Shipment Certifications”).

³⁰ See *Multilayered Wood Flooring From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review; 2011-2012*, 78 FR 52502 (August 23, 2013).

The Department has not granted separate rate to Shenyang Haobainian Wood Co. because it has not provided any information to support its eligibility for a separate rate. In the *Initiation Notice*, the Department included Shenyang Haobainian Wood Co., but continued to suspend entries exported by Shenyang Haobainian Wooden Co. Ltd. while the Department considered whether these companies were the same entity. After further consideration of the record evidence, we have preliminarily determined that these two entities are not the same because Shenyang Haobainian Wooden Co., Ltd. submitted a separate rate certification stating that it is not the same company as Shenyang Haobainian Wood Co.³¹ and there is no record evidence to support a finding that they are the same. Shenyang Haobainian Wooden Co., Ltd. received a separate rate in the underlying investigation.³² Therefore, we intend to issue automatic liquidation instructions for entries of Shenyang Haobainian Wooden Co., Ltd. because no review request was received for this company.³³ Further, we will continue to treat Shenyang Haobainian Wood Co. as part of the PRC-wide entity because it has not provided any information to demonstrate that it is entitled to a separate rate.

Rate for Non-Examined, Separate Rate Respondents

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which were not examined in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}." Accordingly, when only one weighted-average dumping margin for the individually investigated respondents is above *de minimis* and not based entirely on facts available, the separate rate will be equal to that single above *de minimis* rate.³⁴ However, when the weighted-average dumping margins established for all individually investigated respondents are zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act permits the Department to "use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

³¹ See Letter from Shenyang Haobainian Wooden Co., Ltd. to the Department, regarding "Request to Issue Non-Review Liquidation Instructions," (March 19, 2013).

³² See *Multilayered Wood Flooring From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011).

³³ See 19 CFR 351.212(c).

³⁴ See *Longkou Haimeng Mach. Co. v. United States*, 581 F. Supp. 2d 1344, 1357-60 (Ct. Int'l Trade 2008) (affirming the Department's determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009).

In these preliminary results, the Department has calculated a rate for two of the mandatory respondents (*i.e.*, Armstrong and Fine Furniture) that is not zero, *de minimis*, or based entirely on facts available. Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, *de minimis*, or based entirely on adverse facts available ("AFA").³⁵ Consistent with this practice, the Department has assigned to the companies that have not been individually examined but have demonstrated their eligibility for a separate rate a margin of 4.77 percent, which is equal to a simple average of the rates calculated for the mandatory respondents.³⁶

The PRC-wide Entity

Upon initiation of the administrative review, as explained above, we provided the opportunity for all companies for which we initiated the review to complete either the separate rate application or certification.³⁷ We have preliminarily determined that 21 companies did not demonstrate their eligibility for a separate rate and are properly considered part of the PRC-wide entity. In NME proceedings, "rates" may consist of a single dumping margin applicable to all exporters and producers."³⁸ As explained above in the "Separate Rates" section, all companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are thus assigned a single AD rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.³⁹ In this regard, we note that no party has submitted evidence to demonstrate that such government influence is no longer present or that our treatment of the NME entity is otherwise incorrect. Therefore, we are assigning the entity an *ad valorem* rate of 58.84 percent, the only rate ever determined for the PRC-wide entity in this proceeding.⁴⁰

The following companies named in the *Initiation Notice* had separate rate status, but did not submit to the Department either a notification of no sales or a separate rate certification: Baiying Furniture Manufacturer Co., Ltd.; Dazhuang Floor Co. (dba Dasso Industrial Group Co., Ltd.); Fu Lik Timber (HK) Co., Ltd.; Furnco International (HK) Company Limited; Fusong Qianqiu Wooden Group Co., Ltd.; Guangdong Jiasheng Timber Industry Co., Ltd.; Guangzhou Panyu

³⁵ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

³⁶ See Memorandum to the File, "Multilayered Wood Flooring from the People's Republic of China: Calculation of the Preliminary Margin for Separate Rate Recipients," dated concurrently with this notice.

³⁷ See *Initiation Notice*, 78 FR 6291. The separate rate certification and separate rate application were available at: <http://ia.ita.doc.gov/nme/nme-sep-rate.html>.

³⁸ See 19 CFR 351.107(d).

³⁹ See Separate Rate section, above.

⁴⁰ See *Multilayered Wood Flooring From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011).

Shatou Trading Co., Ltd.; Huzhou Fuma Wood Bus. Co., Ltd.; Puli Trading Co., Ltd.; Sennorwell International Group (Hong Kong) Limited; Shanghai Demeijia Wooden Co., Ltd.; Shenyang Sende Wood Co., Ltd.; Suzhou Anxin Weiguang Timber Co., Ltd.; Xinyuan Wooden Industry Co., Ltd.; Yekalon Industry, Inc.; Zhejiang AnJi XinFeng Bamboo & Wood Co., Ltd.; Zhejiang Haoyun Wood Co., Ltd.; Zhejiang Jeson Wood Co., Ltd.; and Zhejiang Jiechen Wood Industry Co., Ltd. Further, the following companies named in the *Initiation Notice* did not have a separate rate and did not submit to the Department either a notification of no sales or a separate rate application: Shenyang Haobainian Wood Co. and Jiazing Brilliant Import & Export Co., Ltd. Thus, the PRC-wide entity is under review for these preliminary results, and we are not rescinding this review with respect to these companies at this time. The Department will make a final determination with respect to the PRC-wide entity at the conclusion of the final results.⁴¹

Surrogate Country and Surrogate Value Data

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP"), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of FOP in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.⁴² The Department determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries with *per capita* gross national incomes that are comparable to the PRC.⁴³

On April 23, 2013, the Department received surrogate country comments from Armstrong, Fine Furniture, Layo Wood and Minglin, as well as Petitioner. Armstrong, Fine Furniture and Minglin suggested using the Philippines as the surrogate country due to its use in the investigation, comparable economic development, significant production of a comparable product (*i.e.*, plywood) and availability of surrogate value ("SV") information. Layo Wood recommended the Philippines and Indonesia, for similar reasons. Petitioner did not recommend a specific surrogate country but raised no objections to the six countries proposed by the Department. On May 3, 2013, Fine Furniture submitted a rebuttal to the Petitioner's comments, recommending that the Department disregard Petitioner's comments due to their failure to pick a specific surrogate country.

Economic Comparability

⁴¹ See *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 47363, 47365 (August 8, 2012), unchanged in *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2010-2011, 78 FR 10130 (February 13, 2013).

⁴² See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("*Policy Bulletin*").

⁴³ See Letter from the Department to Interested Parties regarding, "2011-2012 Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," (April 2, 2013).

As explained in our letter to interested parties, Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are all comparable to the PRC in terms of economic development. Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate, we will rely on data from one of these countries. Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.

Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."⁴⁴ Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country. Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.⁴⁵ Based on the information placed on record of this review, the Department finds that the Philippines is a significant producer of comparable merchandise.⁴⁶

Data Availability

When evaluating SV data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input.⁴⁷ There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.⁴⁸

As noted above, all parties in this proceeding have suggested the Philippines as the primary surrogate country, while the Petitioners did not object to any country on the potential surrogate

⁴⁴ See *Policy Bulletin*, at 2.

⁴⁵ See *Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

⁴⁶ See Letter to the Department from the Petitioners, regarding "Multilayered Wood Flooring from the People's Republic of China," (May 24, 2013); see also Letter to the Department from Armstrong, regarding "Surrogate Value Information Administrative Review – Armstrong Wood Products (Kunshan) Co., Ltd.," (May 24, 2013); see also Letter to the Department from Fine Furniture, regarding "Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China: Surrogate Value Comments," (May 24, 2013); see also Letter to the Department from Minglin, regarding "Multilayered Wood Flooring from the People's Republic of China: Surrogate Value Comments," (May 24, 2013) ("SV Submissions").

⁴⁷ See *Policy Bulletin* 04.1

⁴⁸ See *id.*

country list. Additionally, consistent with the investigation, the Department finds the Philippines is at a level of economic comparability to the PRC, is a significant producer of comparable merchandise and has publicly available and reliable data. Moreover, the record indicates that the Philippines has the best available information to value the mandatory respondents' FOPs because of complete SVs and useable financial statements submitted by all parties in this proceeding.⁴⁹ Therefore, in accordance with section 773(c)(4) of the Act and 19 CFR 351.408(c)(2), the Department preliminarily determined that the Philippines is the most appropriate primary surrogate country for purposes of this administrative review.

SV Comments

SV comments and information were filed by Petitioners, Armstrong, Fine Furniture and Minglin on May 24, 2013. Rebuttal comments were submitted by Petitioners, Fine Furniture and Armstrong on June 3, 2013. A clarification of previously submitted factual information was submitted by Petitioners on July 2, 2013. SV comments and information were also submitted by Layo Wood on August 6, 2013. Petitioners submitted rebuttal comments to Layo Wood's submission on August 16, 2013. For a detailed discussion of the SVs used in this review, *see* the "Factor Valuation" section below and the Preliminary Factor Valuation Memorandum.

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." In *Allied Tube*, the CIT noted that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that 'a different date better reflects the date on which the exporter or producer establishes the material terms of sale.'"⁵⁰ Additionally, the Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁵¹ This normally includes the price, quantity, delivery terms and payment terms.⁵² For the respondents Armstrong, Fine Furniture and Minglin, the Department has preliminarily determined to use the invoice date as the date of sale.

However, for respondent Layo Wood, the Department agrees with Layo Wood that shipment date is the date that most accurately reflects when the material elements of the sale were established.⁵³ In the normal course of business, Layo Wood invoices sales prior to shipment and

⁴⁹ See SV Submissions.

⁵⁰ See *Allied Tube & Conduit Corp. v. United States* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) ("Allied Tube").

⁵¹ See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090-1092.

⁵² See, e.g., *Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.

⁵³ See Letter from Layo Wood to the Department, regarding "Multilayered Wood Flooring from the People's Republic of China: Supplemental Section A Questionnaire Response" pages 4-6 (July 3, 2013).

does not finalize the terms of the sale until the shipment leaves the factory.⁵⁴ No further changes are made to the terms of sale after shipment and invoices are amended, if necessary, to reflect any changes between the terms of the initial invoice and the actual shipment.⁵⁵ Accordingly, the Department is using shipment date as Layo Wood's date of sale.

Fair Value Comparisons

To determine whether respondents' sales of subject merchandise were made at less than NV, we compared EP or CEP to NV, as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections below.⁵⁶

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.⁵⁷ In recent investigations and reviews, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁵⁸ The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this

⁵⁴ See *id.*

⁵⁵ See *id.*

⁵⁶ In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) ("*Final Modification for Reviews*").

⁵⁷ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

⁵⁸ See *Xanthan Gum from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2252 (January 10, 2013), unchanged in *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation*, 78 FR 25946 (May 3, 2013), unchanged in *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013); see also *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, FR 78 21101 (April 9, 2013), unchanged in *Certain Steel Threaded Rod From the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013); see also *Certain Lined Paper Products From the People's Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 34640 (June 10, 2013) unchanged in *Certain Lined Paper Products From the People's Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 65274 (October 31, 2013).

administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results

support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For Armstrong, based on the results of the differential pricing analysis, the Department finds that 18.10 percent of Armstrong's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.⁵⁹ As such, the Department finds that these results do not support consideration of an alternative to the average-to-average method. Accordingly, the Department has determined to use the average-to-average method in making comparisons of CEP and NV for Armstrong.⁶⁰

For Fine Furniture, based on the results of the differential pricing analysis, the Department finds that 40.90 percent of Fine Furniture's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.⁶¹ As such, the Department finds that these results support consideration of an alternative to the average-to-average method. When comparing the weighted-average dumping margin calculated based on the standard method (*i.e.*, the average-to-average method for all U.S. sales) and the

⁵⁹ See company-specific analysis memoranda.

⁶⁰ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Final Modification for Reviews*.

⁶¹ See company-specific analysis memoranda.

weighted-average dumping margin calculated based on the appropriate alternative method, there is a meaningful difference in the results.⁶² Accordingly, the Department has determined to use the average-to-transaction method for the U.S. sales which pass the Cohen's *d* test and the average-to-average methodology for the remaining U.S. sales in making comparisons of CEP and NV for Fine Furniture.

For Layo Wood, based on the results of the differential pricing analysis, the Department finds that 67.70 percent of Layo Wood's export sales confirm the existence of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions or time periods.⁶³ As such, the Department finds that these results support consideration of an alternative to the average-to-average method. When comparing the weighted-average dumping margins calculated using the standard average-to-average method for all U.S. sales and the appropriate alternative comparison method, there is a meaningful difference in the results.⁶⁴ Accordingly, the Department has determined to use the average-to-transaction method in making comparisons of EP and NV for all of Layo Wood's sales.

For Minglin, based on the results of the differential pricing analysis, the Department finds that 50.60 percent of Minglin's export sales confirm the existence of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions or time periods.⁶⁵ As such, the Department finds that these results support consideration of an alternative to the average-to-average method. However, when comparing the weighted-average dumping margin calculated using the standard average-to-average method and the weighted-average margin calculated using the appropriate alternative method, there is not a meaningful difference in the results.⁶⁶ Accordingly, the Department has preliminarily determined to use the average-to-average method in making comparisons of EP and NV for Minglin.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. We used the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We find that all of Minglin's and Layo Wood's sales in this review are EP sales.

⁶² *See id.*

⁶³ *See id.*

⁶⁴ *See id.*

⁶⁵ *See id.*

⁶⁶ *See id.*

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, domestic brokerage and handling, and billing adjustments, as applicable.⁶⁷

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” Armstrong and Fine Furniture reported only CEP sales and we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for: foreign movement expenses, including inland freight from warehouse to port; brokerage and handling expenses; distribution handling charges; early payment discounts and rebates; international movement expenses, including ocean freight and marine insurance; U.S. warehousing expenses; U.S. movement expenses, including U.S. inland freight from port to warehouse and U.S. inland freight from warehouse to unaffiliated customer; and other expenses, including U.S. duties and appropriate selling expenses, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, where appropriate. Specifically, we deducted, where appropriate, commissions, inventory carrying costs, credit expenses, royalties, warranty, competitive price allowances, and indirect selling expenses. Where foreign movement expenses were provided by PRC service providers or paid for in PRC currency, we valued these services using SVs.⁶⁸ For those expenses that were provided by an ME provider and paid for in an ME currency, we used the reported expense. Moreover, we adjusted CEP for freight revenues, billing adjustments, in-store service fees, energy, and miscellaneous adjustments, where applicable, in accordance with section 772(d)(1) and section 772(c)(2)(A) of the Act.⁶⁹

Value Added Tax

The Department recently announced a change of methodology in regards to the calculation of EP and CEP to include an adjustment for the amount of any unrefunded VAT in certain NMEs, in accordance with section 772(c)(2)(B) of the Act.⁷⁰ Information placed on the record of this review by the respondents demonstrates that the VAT rate during the POR was 17 percent, and that there was a VAT rebate rate of nine percent applicable to exports of the merchandise under

⁶⁷ See Memorandum to the File from Lilit Astvatsatrian to Robert Bolling, regarding “Preliminary Results of the First Administrative Review of Multilayered Wood Flooring from the People’s Republic of China: Surrogate Value Memorandum,” dated November 18, 2013 (“SV Memorandum”).

⁶⁸ See SV Memorandum for details regarding the SVs for movement expenses.

⁶⁹ See company-specific preliminary analysis memoranda.

⁷⁰ See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36484 (June 19, 2012).

consideration.⁷¹ In order to calculate a price net of VAT, we adjusted the net price for all respondents for the unrefunded VAT.⁷²

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. Under section 773(c)(3) of the Act, FOPs include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; and (3) representative capital costs. The Department used FOPs reported by the respondents for materials, labor, packing and by-products. More information regarding the specific FOPs used by the Department can be found in the SV Memorandum, issued concurrently with this memorandum.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOP reported by the respondents for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOP. However, when a producer sources an input from an ME and pays for it in an ME currency, the Department normally will value the factor using the actual price paid for the input.⁷³ To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, we considered the quality, specificity, and contemporaneity of the data.⁷⁴ As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs the surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the

⁷¹ See Letter from Minglin to the Department, regarding "Multilayered Wood Flooring from the People's Republic of China: Section C&D Response" pages C-35 to C-37 (May 13, 2013); see also Letter from Fine Furniture to the Department, regarding "Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China: Section C and D Questionnaire Response of Fine Furniture (Shanghai Limited), page C-47 (May 17, 2013); see also Letter from Armstrong to the Department, regarding "Section C&D Questionnaire Response Administrative Review – Armstrong Wood Products (Kunshan) Co., Ltd. Multilayered Wood Flooring from China," page C-39 and Exhibit C-16 (May 17, 2013); see also Letter from Armstrong to the Department, regarding "Supplemental ACD Questionnaire Response Administrative Review – Armstrong Wood Products (Kunshan) Co., Ltd. Multilayered Wood Flooring from China," pages 10-11 and Exhibit S-7 (August 23, 2013).

⁷² See company-specific analysis memoranda.

⁷³ See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components Div of III Tool Works v. United States*, 268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

⁷⁴ See *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; see also *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.*⁷⁵

For the preliminary results, except where noted below, we used data from the Philippine import statistics in Global Trade Atlas ("GTA") and other publicly available Philippine sources in order to calculate SVs for the respondents FOPs (*i.e.*, direct materials and packing materials) and certain movement expenses. As noted above, when selecting the best available information for valuing FOP, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.⁷⁶ The record shows that Philippine import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.⁷⁷

To value plywood, we relied on the Philippines Department of Environment and Natural Resources, Forest Management Bureau ("FMB")'s 2011 price data for lauan plywood, which is contemporaneous with the POR. In doing so, the Department is averaging the prices of 4.7625 millimeter (mm) thick, 6.35 mm thick, and 12.7 mm thick plywood for all of 2011.

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.⁷⁸ In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.⁷⁹ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs. Additionally, we

⁷⁵ See *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) ("*Sigma Corp.*").

⁷⁶ See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

⁷⁷ See SV Memorandum.

⁷⁸ See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

⁷⁹ See *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

disregarded prices from NME countries.⁸⁰ Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.⁸¹

We valued truck freight expenses using average truck rates from the Confederation of Truckers Association of the Philippines, Inc. (“CTAP”) for 92 destinations within the Philippines and the driving distances to these 92 destinations.⁸² The CTAP source is the best available information to value truck freight because it is contemporaneous with the POR, represents a broad market average of multiple destinations, specific to the input being valued, and contains numerous data points by which the Department was able to calculate the SV for truck freight.⁸³ For those inputs where respondents reported a unit of measure of cubic meters (“M3”), we converted the kilogram per kilometer (“kg/km”) SV to a M3/km basis in respondents’ margin programs using the appropriate wood density information respondents placed on the record.⁸⁴

To calculate the labor input, we based our calculation on the methodology outlined by the Department in Labor Methodologies, which recommends using single-country labor cost and compensation data from Chapter 6A of the International Labor Organization (“ILO”) Yearbook of Labor Statistics (“Yearbook”).⁸⁵ Under Chapter 6A of the ILO data, the labor data cover all paid manufacturing employees, wage earners and salaried employees, of both genders.⁸⁶ The Philippine ILO labor data include annual costs categorized as “labor cost” reported on a per-hour basis for 2002 and annual costs categorized as “compensation of employees” on a per-day and a per-month basis for 2008.⁸⁷ While it is the Department’s preference to use the data categorized as “labor cost,” over “compensation of employees,” we determined that the best data available to use in this review are the 2008 “compensation for employees” hourly data because they are closer to the POR than are the 2002 “labor cost” data.⁸⁸ Therefore, we relied on the most recent (2008) Philippine labor cost data categorized as “compensation of employees,” that were reported on a daily basis, to calculate a single labor rate.

⁸⁰ See *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) and *Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009).

⁸¹ See *id.*

⁸² See SV Memorandum.

⁸³ See, e.g., *Wooden Bedroom Furniture From the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part*, 75 FR 5952 (February 5, 2010); unchanged in *Wooden Bedroom Furniture From the People’s Republic of China: Final Results and Final Rescission in Part*, 75 FR 50992 (August 18, 2010); see also SV Memorandum.

⁸⁴ See company-specific preliminary analysis memoranda.

⁸⁵ See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”).

⁸⁶ See *id.*

⁸⁷ See *id.*

⁸⁸ See *id.*

The Department was unable to obtain a suitable SV for purchased steam from the Philippines. However, we were able to find a SV for steam from Thailand, a country that is on the surrogate country list. We therefore valued steam using the steam price data published by the Electricity Generating Authority of Thailand, Glow Energy Public Company Limited 2011 annual report. These steam rates represent actual country-wide, publicly-available information on tax-exclusive steam rates charged to customers in Thailand.⁸⁹ We did not inflate this value because the utility rates are contemporaneous with the POR.⁹⁰

The record includes 18 sets of financial statements from the Philippines for the years ending December 2011 or December 2012, both of which are contemporaneous with this POR. The financial statements are from companies that produce comparable merchandise to MLWF (*i.e.*, plywood) and include the following: Smart Plywood Industries, Inc. (2011), Tagum PPMC Wood Veneer, Inc. (2011), Philippine Softwood Products, Inc. (2011), Richmond Plywood Corporation (2011), Charverson Wood Industry Corporation (2011), Mount Banahaw Wood Industries, Inc. (2011), Mega Plywood (2012), Republic Wooden Commodities Manufacturing Corporation (2011 and 2012), Winlex Marketing Corporation (2011 and 2012), Davao Panels Enterprises (2011 and 2012), Mintrade Corporation (2011 and 2012), Novawood Forest Industries Corporation (2011 and 2012), Baganga Plywood (2011). For these preliminary results, the Department will use the following six statements to calculate financial ratios for factory overhead, selling, general and administrative expenses and profit: Smart Plywood Industries, Inc., Tagum PPMC Wood Veneer, Inc., Philippine Softwood Products, Inc., Richmond Plywood Corporation, Charverson Wood Industry Corporation and Mount Banahaw. The 12 financial statements that will not be used were incomplete, contained non-interest bearing loans from shareholders, or are from companies that contained evidence of integrated operations.⁹¹ The Department may consider other publicly available financial statements for the final results, as appropriate.

It has been the Department's practice to grant offsets for waste or byproducts that are sold.⁹² Also, for waste or byproducts sold to unaffiliated parties, it is the Department's practice to offset NV costs with the sales revenue of the waste or byproduct.⁹³ Because Armstrong and Layo Wood reported that they sold their wood scrap, the Department has offset NV for byproducts. Respondents recommended that we value their wood scrap using Philippine import data under HS code 440130 "Sawdust And Wood Waste And Scrap, Whether Or Not Agglomerated In Logs, Briquettes, Pellets Or Similar Forms." In our review of this data, we found that the surrogate AUV for wood under HTS code 440130 is higher than the SV used for the input consumed to generate the scrap in question. While we acknowledge that HS code 440130 includes an explicit reference to "wood scrap" and is clearly identified as among the types of scrap generated by respondents, the HTS code description is not the only relevant factor for the

⁸⁹ See SV Memorandum.

⁹⁰ See *id.*

⁹¹ See SV Submissions.

⁹² See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews* ("HFHTs Final"), 70 FR 54897 (September 19, 2005).

⁹³ See *HFHTs Final*.

Department to consider in valuing wood scrap.⁹⁴ Reliance on this value will produce an unreasonable result because the resulting SV is higher than the SV used for the input consumed to generate the scrap. Therefore, consistent with our practice, we have determined to cap the SV for scrap at the AUV price of face veneer.⁹⁵ Therefore, we will use the “wood scrap” HTS code 440130 capped by the AUV price of HTS code 4408901000 “Face Veneer Sheets.”

Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Recommendation

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date

⁹⁴ See *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008).

⁹⁵ See *id.*

Appendix 1

1. A&W (Shanghai) Woods Co., Ltd.
2. Baishan Huafeng Wood Product Co., Ltd.
3. Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd.
4. Chinafloors Timber (China) Co., Ltd.
5. Dalian Dajen Wood Co., Ltd.
6. Dalian Huilong Wooden Products Co., Ltd.
7. Dalian Kemiao Wood Industry Co., Ltd
8. Dalian Penghong Floor Products Co., Ltd.
9. Dasso Industrial Group Co., Ltd.
10. Dontai Fuan Universal Dynamics, LLC.
11. Dun Hua Sen Tai Wood Co., Ltd.
12. Dunhua City Hongyuan Wood Industry Co. Ltd.
13. Dunhua City Jisen Wood Industry Co. Ltd.
14. Dunhua City Wanrong Wood Industry Co., Ltd.
15. Dunhua Dexin Wood Industry Co. Ltd.
16. GTP International
17. Guangdong Yihua Timber Industry Co., Ltd.
18. Guangzhou Panyu Kangda Board Co., Ltd.
19. Guangzhou Panyu Southern Star Co., Ltd.
20. HaiLin LinJing Wooden Products, Ltd.
21. Hangzhou Hanje Tec Co., Ltd.
22. Hunchun Forest Wolf Wooden Industry Co., Ltd
23. Huzhou Chenghang Wood Co., Ltd.
24. Huzhou Fulinmen Imp & Emp. Co., Ltd.
25. Huzhou Jensonwood Co., Ltd.
26. Huzhou Sunergy World Trade Co., Ltd.
27. Jianfeng Wood (Suzhou) Co., Ltd.
28. Jiangsu Senmao Bamboo and Wood Industry Co., Ltd
29. Jiangsu Simba Flooring Co., Ltd.
30. Jiashan HuiJiaLe Decoration Material Co., Ltd.
31. Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.
32. Jilin Xinyuan Wooden Industry Co., Ltd.
33. Karly Wood Product Limited
34. Kemiao Wood Industry (Kunshan) Co., Ltd.
35. Metropolitan Hardwood Floors, Inc.
36. Mudanjiang Bosen Wood Industry Co., Ltd.
37. Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
38. Puli Trading Limited
39. Shanghai Eswell Timber Co., Ltd.
40. Shanghai Lairunde Wood Co., Ltd.
41. Shanghai Lizhong Wood Products Co., Ltd. / The Lizhong Wood Industry Limited Company of Shanghai
42. Shanghai New Sihi Wood Co., Ltd.
43. Shanghai Shenlin Corp.

44. Shenzhenshi Huanwei Woods Co., Ltd
45. Suzhou Dongda Wood Co., Ltd
46. Xiamen Yung De Ornament Co., Ltd.
47. Xuzhou Shenghe Wood Co., Ltd.
48. Kunshan Yingyi-Nature Wood Industry Co. Ltd.
49. Yixing Lion-King Timber Industry Co., Ltd.
50. Zhejiang Biyork Wood Co., Ltd.
51. Zhejiang Dadongwu Greenhome Wood Co., Ltd.
52. Zhejiang Desheng Wood Industry Co. Ltd.
53. Zhejiang Fudeli Timber Industry Co., Ltd
54. Zhejiang Longsen Lumbering Co., Ltd.
55. Zhejiang Shiyou Timber Co., Ltd.
56. Zhejiang Tianzhen Bamboo & Wood Development Co., Ltd.