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

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Wooden Bedroom Furniture from
the People's Republic of China

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review ("AR") of the antidumping duty order on wooden bedroom furniture ("WBF") from the People's Republic of China ("PRC") for the period of review ("POR") January 1, 2014, through December 31, 2014. The AR covers 18 exporters of the subject merchandise, including one mandatory respondent, Shanghai Jian Pu Import & Export Co., Ltd. ("Jian Pu"). The Department preliminarily finds that seven companies, including Jian Pu, have not established their entitlement to separate rate status and, therefore, they have been treated as part of the PRC-wide entity. The Department also preliminarily determines that 11 companies made no shipments of subject merchandise during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will 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 January 4, 2005, the Department published in the Federal Register the antidumping duty order on wooden bedroom furniture from the PRC.¹ On January 2, 2015, the Department notified interested parties of their opportunity to request an AR of orders, findings, or suspended investigations with anniversaries in January 2015, including the antidumping duty order on

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China*, 70 FR 329 (January 4, 2005).



wooden bedroom furniture from the PRC.² In January 2015, the American Furniture Manufacturers Committee for Legal Trade (“AMFC”) and Vaughan-Bassett Furniture Company, Inc. (collectively, “Petitioners”), and a domestic interested party, Kimball International, Inc., Kimball Furniture Group, Inc. and Kimball Hospitality Inc. (collectively, “Kimball”), as well as certain foreign exporters, requested that the Department conduct an administrative review of certain exporters covering the period January 1, 2014 through December 31, 2014.

In total, the Department received review requests covering 127 companies or company groupings. On March 2, 2015, the Department published a notice initiating an antidumping duty AR of wooden bedroom furniture from the PRC covering 127 companies or company groupings for the period January 1, 2014 through December 31, 2014.³

From March through May 2015, Petitioners withdrew numerous review requests in a timely manner, and Kimball and Ashley withdrew all of their review requests. On October 26, 2015, the Department published a notice rescinding the review with respect to 109 companies for which all review requests had been withdrawn.⁴

Jian Pu submitted certain responses to the Department’s antidumping questionnaire from July 2015 to August 2015. On September 2, 2015, the Department extended the deadline for the preliminary results of the AR until December 2, 2015.⁵

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, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 27 (January 2, 2015) (“*Opportunity Notice*”).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 80 FR 11166 (March 2, 2015) (“*Initiation Notice*”).

⁴ See *Wooden Bedroom Furniture From the People’s Republic of China: Partial Rescission of Antidumping Duty Administrative Review*, 80 FR 65198 (October 26, 2015) (“*Partial Rescission Notice*”).

⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding “Wooden Bedroom Furniture from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated September 2, 2015.

hang over the dresser; (5) chests-on-chests,⁶ highboys,⁷ lowboys,⁸ chests of drawers,⁹ chests,¹⁰ door chests,¹¹ chiffoniers,¹² hutches,¹³ and armoires;¹⁴ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and 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;¹⁵ (9) jewelry armories;¹⁶ (10) cheval mirrors;¹⁷

⁶ 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.

⁷ 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).

⁸ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁹ A chest of drawers is typically a case containing drawers for storing clothing.

¹⁰ 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.

¹¹ 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.

¹² A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹³ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁴ 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 to hold television receivers and/or other audio-visual entertainment systems.

¹⁵ 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* CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

¹⁶ Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches 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: Final Changed Circumstances Review, and Determination To Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

¹⁷ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line 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.

(11) certain metal parts;¹⁸ (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds¹⁹; and (14) toy boxes.²⁰ Also excluded from the scope are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) a metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready-to-assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the order.

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 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 9403.50.9042 or 9403.50.9045 of the HTSUS as “parts of wood.” Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, or 9403.20.0018. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as “glass mirrors . . . framed.” The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

See Wooden Bedroom Furniture From the People’s Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part, 72 FR 948 (January 9, 2007).

¹⁸ Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

¹⁹ 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).

²⁰ To be excluded the toy box must: (1) be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (“ASTM”) standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children’s items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People’s Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum “Wooden Bedroom Furniture from the People’s Republic of China: Scope Ruling on a White Toy Box,” dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter or 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.

In the *Opportunity Notice*, the Department stated that if it limited the number of respondents selected for individual examination in the WBF AR, it intended to select respondents based on volume data contained in responses to the quantity and value (“Q&V”) questionnaire.²¹ Further, in the *Opportunity Notice*, the Department stated that it would require all parties filing separate rate applications or certifications to respond to the Q&V questionnaire and certain additional questions.²²

In the *Initiation Notice*, the Department notified interested parties that for the purposes of this AR, in the event that it limited the number of respondents for individual examination in the AR, it would select respondents based on volume data contained in responses to the Q&V questionnaire on the Department’s website.²³ Further, the Department noted that all parties that wanted to be considered for separate rate status must either file a separate rate application (“SRA”) or separate rate certification (“SRC”), as appropriate, as well as provide both a response to the Q&V questionnaire and a response to certain additional questions that were posted on the Department’s website.²⁴ The Department received SRAs and SRCs containing Q&V information and responses to the additional questions (collectively “the required information”) from several companies or company groupings from March 2015 through April 2015. From April 2015 through June 2015, Petitioners and Kimball withdrew review requests for all companies that had provided the required separate rate information, except Jian Pu, and the Department chose Jian Pu as the sole mandatory respondent.²⁵

DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

Among the companies under review, 12 companies reported that they made no shipments of subject merchandise to the United States during the POR. These 12 companies are: (1) Clearwise Co., Ltd.; (2) Dongguan Chengcheng Furniture Co., Ltd.; (3) Dongguan Singways Furniture Co., Ltd.; (4) Eurosa (Kunshan) Co., Ltd., Eurosa Furniture Co., (Pte) Ltd.; (5) Golden Well International (HK) Ltd.; (6) Hangzhou Cadman Trading Co., Ltd.; (7) Rizhao Sanmu Woodworking Co., Ltd.; (8) Shenyang Shining Dongxing Furniture Co., Ltd.; (9) Woodworth Wooden Industries (Dong Guan) Co., Ltd.; (10) Wuxi Yushea Furniture Co., Ltd.; (11) Yeh Brothers World Trade Inc.; and (12) Zhejiang Tianyi Scientific & Educational Equipment Co.,

²¹ See *Opportunity Notice*, 80 FR at 27.

²² *Id.*

²³ See *Initiation Notice*, 80 FR at 11167.

²⁴ *Id.*

²⁵ See Letter from Howard Smith to Shanghai Jian Pu Import & Export Co., Ltd., dated June 8, 2015.

Ltd. To test these claims, the Department ran a CBP data query, issued a no-shipment inquiry to CBP requesting that it provide any information that contradicted the no-shipment claims, and obtained entry documents from CBP.²⁶

Based on the certifications of all companies and our analysis of CBP information, we preliminarily determine that the following 11 companies had no reviewable transactions during the POR: 1) Clearwise Co., Ltd.; (2) Dongguan Chengcheng Furniture Co., Ltd.; (3) Dongguan Singways Furniture Co., Ltd.; (4) Eurosa (Kunshan) Co., Ltd., Eurosa Furniture Co., (Pte) Ltd.; (5) Golden Well International (HK) Ltd.; (6) Hangzhou Cadman Trading Co., Ltd.; (7) Rizhao Sanmu Woodworking Co., Ltd.; (8) Shenyang Shining Dongxing Furniture Co., Ltd.; (9) Wuxi Yushea Furniture Co., Ltd.; (10) Yeh Brothers World Trade Inc.; and (11) Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.²⁷ However, the Department found evidence that contradicted the no-shipment claim of Woodworth Wooden Industries (Dong Guan) Co., Ltd., and the Department has preliminarily determined to treat Woodworth Wooden Industries (Dong Guan) Co., Ltd. as part of the PRC-wide entity, as discussed below. The Department finds that consistent with its announced refinement to its assessment practice in non-market economy (“NME”) cases, it is not appropriate to rescind the review with respect to these companies but, rather, it is appropriate to complete the review with respect to these twelve companies and issue instructions to CBP based on the final results of the review.²⁸

Duty Absorption

On April 1, 2015, Petitioners requested that the Department determine whether antidumping duties have been absorbed by exporters and producers subject to the AR.²⁹ *FAG Italia* makes clear that the Department may not conduct a duty absorption inquiry after the first sunset review.³⁰ Consistent with *FAG Italia*, we have not conducted duty absorption because it is not the second or fourth review after the order.

²⁶ See Memorandum to the File from Patrick O’Connor, Re: “Release of U.S. Customs and Border Protection Information Relating to No Shipment Claims Made in the 2014 Administrative Review of Wooden Bedroom Furniture from the People’s Republic of China,” dated October 26, 2015.

²⁷ See Memorandum from Patrick O’Connor, International Trade Compliance Analyst, Office IV, to Abdelali Elouaradia Director, Office IV, AD/CVD Operations, regarding the “Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People’s Republic of China: Analysis of No Exports, Sales, or Entries by Certain Companies,” dated concurrently with this memorandum. The Department preliminarily found that Woodworth Wooden Industries (Dong Guan) Co., Ltd. has not established its eligibility for separate rate status.

²⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

²⁹ See Letter from Petitioners to the Department, Re: “Wooden Bedroom Furniture From the People’s Republic of China/Request for Duty Absorption Determination,” dated April 1, 2015.

³⁰ See *FAG Italia S.p.A. v. United States*, 291 F.3d 806, 815 n.13 (Fed. Cir. 2002) (“*FAG Italia*”), (rejecting the claim that the Department has the authority to conduct duty absorption inquiries every second and fourth year after each successive sunset review because “neither the statute nor its legislative history suggests that Commerce may conduct duty absorption inquiries beyond the initial sunset review, and the plain language of the statute provides that duty absorption inquiries be conducted ‘2 years or 4 years after the publication of an antidumping duty order.’”).

NME Country Status

The Department considers the PRC to be a NME country.³¹ 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, the Department will continue to treat the PRC as an NME country for purposes of these preliminary results of review.

Separate Rates

In the AR, the only remaining company under review that filed a separate rate application or certification is the mandatory respondent, Jian Pu. However, the Department is preliminarily treating Jian Pu as part of the PRC-wide entity. In litigation involving the diamond sawblades from the PRC proceeding,³² the Court of International Trade (“CIT”) found the Department’s existing separate rates analysis deficient in the specific circumstances of that case, in which a government controlled entity had significant ownership in the respondent exporter.³³ Thus, the Department continues to evaluate its practice with regard to the separate rates analysis in light of the diamond sawblades from the PRC proceeding, and the Department’s determinations therein. In more recent cases the Department has found that respondents that are under control of State Owned Assets Supervision and Administration Commission (“SASAC”), which is a Chinese government entity that administers state owned enterprises (“SOEs”), are not entitled to separate rates.³⁴ We also recently concluded that where a government entity holds a majority ownership share, either directly or indirectly, in the respondent exporter, the majority ownership holding in and of itself means that the government exercises, or has the potential to exercise control, over

³¹ See *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) and the accompanying Issues and Decision Memorandum at the Background section.

³² See *Final Results of Redetermination Pursuant to Remand Order Diamond Sawblades and Parts Thereof from the People’s Republic of China* (May 6, 2013) in *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012), sustained 938 F. Supp. 2d 1342 (CIT 2013), aff’d pursuant to *Fed. Cir. R.* 36, 581 Fed. Appx. 900 (CAFC 2014). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014) and accompanying Issues and Decision Memorandum at Comment 1 (“*Diamond Sawblades*”).

³³ See, e.g., *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343, 1349 (CIT 2012) (“The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it.”); *id.* at 1351 (“Further substantial evidence of record does not support the inference that SASAC’s {State-owned Assets Supervision and Administration Commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor de jure ‘separation’ that Commerce concludes.”) (footnotes omitted); *id.* at 1355 (“The point here is that ‘governmental control’ in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a ‘degree’ of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to ‘day-to-day decisions of export operations,’ including terms, financing, and inputs into finished product for export.”); *id.* at 1357 (“AT&M itself identifies its ‘controlling shareholder’ as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.”) (footnotes omitted).

³⁴ See, e.g., *1,1,1,2-Tetrafluoroethane From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 62597 (October 20, 2014) and accompanying IDM at Comment 1; *Diamond Sawblades*, and accompanying IDM at Comment 1.

the company's operations generally.³⁵ This may include control over, for example, the selection of management, a key factor in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company.

In the instant proceeding, Jian Pu reported that it was 96 percent owned by China National Building Materials Import and Export Corp. ("CNBMIE") and four percent owned by China National Building Materials Supply Chain Management ("CNBMSCM") during the POR. Jian Pu also reported that the SASAC indirectly owned 100 percent of CNBMIE and 80 percent of CNBMSCM, thus, Jian Pu is ultimately 99.2 percent owned by SASAC. The business licenses of CNBMIE and CNBMSCM support Jian Pu's assertions that these two shareholders are state-owned companies. The government of the People's Republic of China ("GOC") indirectly, through these two shareholders, owned nearly all of Jian Pu during the POR.

In this case, we preliminarily determine that the GOC, through its significant ownership interest in Jian Pu, is in a position to potentially control Jian Pu's export activities. Because of the level of government ownership in Jian Pu, and the control or the potential to exercise control that such ownership establishes, we preliminarily conclude that Jian Pu does not satisfy the criteria demonstrating an absence of *de facto* government control over export activities. Consequently, we preliminarily determine that the Jian Pu is ineligible for a separate rate. Therefore, the Department is preliminarily treating Jian Pu as part of the PRC-wide entity.³⁶

Companies that did not provide separate rate applications or separate rate certifications

The six companies listed below, for which a review was requested, failed to provide SRAs or SRCs necessary to establish their eligibility for a separate rate. Hence, the Department preliminarily determines to treat the following companies as part of the PRC-wide entity:

- (1) Baigou Crafts Factory of Fengkai
- (2) Dongguan Hung Sheng Artware Products Co., Ltd., Coronal Enterprise Co., Ltd.
- (3) Hualing Furniture (China) Co., Ltd., Tony House Manufacture (China) Co., Ltd., Buysell Investments Ltd., Tony House Industries Co., Ltd.
- (4) Orient International Holding Shanghai Foreign Trade Co., Ltd.

³⁵ See *Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014) ("*Wire Rod*") and accompanying Preliminary Decision Memorandum ("PDM") at 5-9; no changes in *Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014).

³⁶ See, e.g., *Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the Second Antidumping Duty Administrative Review*, 76 FR 66903, 66906 (October 28, 2011) (where the Department assigned certain unresponsive mandatory respondents to the PRC-wide entity because they failed to demonstrate their separate rate eligibility) unchanged in *Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Second Antidumping Duty Administrative Review*, 77 FR 12553 (March 1, 2012).

- (5) Prime Wood International Co., Ltd, Prime Best International Co., Ltd., Prime Best Factory, Liang Huang (Jiaxing) Enterprise Co., Ltd.
- (6) Woodworth Wooden Industries (Dong Guan) Co., Ltd.

Since the Department preliminarily determined that Jian Pu and six other companies are not eligible for separate rate status, we are treating them as part of the PRC-wide entity. Because no review request was made of the PRC-wide entity, we determined a rate consistent with the Department's current practice regarding conditional review of the PRC-wide entity.³⁷ Therefore, if our determination is unchanged in the final results, these seven companies' entries will be liquidated at the rate previously established for the PRC-wide entity.³⁸

Allegation of Duty Evasion

On July 27, 2015, Petitioners placed publicly available information published by Datamyne on the record,³⁹ relating to Jian Pu's POR exports.⁴⁰ In addition, on October 5, 2015, Petitioners provided additional ship manifest data,⁴¹ and claimed that Jian Pu is funneling subject merchandise into the United States at a low cash deposit rate, because all of Jian Pu's suppliers of subject merchandise are subject to the PRC-wide rate of 216.01 percent. Petitioners argue that Jian Pu had little, if any involvement in the exports for which it is reported to be the exporter and that Jian Pu's submissions do not demonstrate that Jian Pu set the terms of all of its sales. Petitioners claim that Jian Pu's producers ship non-subject merchandise while Jian Pu ships subject merchandise to the same U.S. customers, on the same shipping vessel, arriving on the same date, and sometimes within the same shipping container. Ultimately, Petitioners urge the Department to identify these producers as the actual price discriminators for shipments purportedly made by Jian Pu.

Petitioners state that the Department has an obligation to investigate evasion and potential fraud, as noted by the CIT, and the Department has previously stated that it would report instances of

³⁷ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013). Under this practice, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change.

³⁸ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

³⁹ Datamyne sources its information from CBP's Automated Manifest System database, which contains details from ship manifests and bills of lading that are specific to particular shipments.

⁴⁰ See Letter from Petitioners to the Department, Re: "Wooden Bedroom Furniture From The People's Republic Of China: Public Factual Information In Response To Jianpu's Section A Response," dated July 27, 2015.

⁴¹ See Letter from Petitioner's to the Department, Re: "Wooden Bedroom Furniture from the People's Republic of China: Comments Regarding Jianpu and its Purported Suppliers, dated October 5, 2015 ("Petitioners' Comments on Jian Pu's Suppliers").

fraud to CBP for proper action.⁴² Further, Petitioners request that the Department investigate the extent to which producers, manufacturers, Jian Pu, and U.S. importers or customers engaged in an evasion scheme by misidentifying Jian Pu as the exporter for sales for which Jian Pu did not set the terms of sale. Petitioners urge that the Department obtain additional information from Jian Pu and its suppliers in order to understand the sales process and that the Department obtain entry packages from CBP to corroborate the information that Petitioners provided. Petitioners request the Department to refer this matter to CBP for a civil and/or criminal investigation.

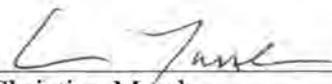
Although Petitioners contend that the Department must determine that the producers are the price discriminators in order to prevent parties from inappropriately using Jian Pu's lower antidumping duty cash deposit rate, we have preliminarily concluded that Jian Pu's lower cash deposit rate should not be the liquidation rate for POR entries of its merchandise nor will that rate be the cash deposit rate for Jian Pu's exports going forward. Given Jian Pu's failure to demonstrate that it is eligible for separate-rate status, POR entries under Jian Pu's antidumping duty cash deposit rate will be liquidated at the PRC-wide rate, rather than the lower cash deposit rate required at the time of entry. Thus, even if the alleged funneling scheme existed, parties will not be able to evade antidumping duties because Jian Pu's exports will be liquidated at the higher PRC-wide rate. Further, given that we have preliminarily found that Jian Pu is no longer eligible for a separate rate, any possible "funneling" of subject merchandise through Jian Pu at a lower antidumping duty rate will not be able to continue. The cash deposit rate for future entries of subject merchandise directly exported to the United States by Jian Pu will be the PRC-wide rate. Petitioners' allegations raise serious concerns. The Department is committed to identifying and preventing the evasion of antidumping duties, and we will forward Petitioners' allegations to CBP for further investigation.

CONCLUSION

We recommend applying the above methodology for these preliminary results.

Agree

Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

12/2/15

Date

⁴² See Petitioners' Comments on Jian Pu's Suppliers at 18. See also *Wooden Bedroom Furniture From the People's Republic of China: Final Results and Final Rescission in Part*, 76 FR 49729 (August 11, 2011), and accompanying I&D Memorandum at Comment 16 where the Department said that in instances where companies may be improperly misreporting their entries to CBP, such instances will be reported to CBP for proper action under that agency's fraud provisions; see also *Certain Activated Carbon From the People's Republic of China*, 75 FR 70208 (November 17, 2010) ("*Activated Carbon*"), and accompanying I&D Memorandum at Comment 1 where the Department said it would be able to fully review the respondent to which the cash deposit rate is being applied.