of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 14.74 percent, the ''All Others'' rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 2, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–890]

Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of Review

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on wooden bedroom furniture (''WBF'') from the People's Republic of China (''PRC''). The period of review (''POR'') is January 1, 2007 through December 31, 2007. This administrative review covers multiple exporters of the subject merchandise, two of which are being individually reviewed as mandatory respondents. The Department is also conducting two new shipper reviews for exporters/producers. The POR for the new shipper reviews is also January 1, 2007, through December 31, 2007.

We preliminarily determine that the mandatory respondents in the administrative review made sales in the United States at prices below normal value (''NV''). With respect to the remaining respondents in the administrative review, we preliminarily determine that 16 entities have provided sufficient evidence that they are separate from the state-controlled entity, and we have established a weighted-average margin based on the rates we have calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on adverse facts available, to be applied to these separate rate entities.[1] Further, we preliminarily determine that the remaining six respondents in the administrative review have not demonstrated that they are entitled to a separate rate, and thus are considered part of the PRC entity. Finally, we preliminarily determine that the new shippers have not made sales in the United States at less than 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 antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. We intend to issue the final results of this review no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* February 9, 2009.

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

Background

On January 4, 2005, the Department published in the **Federal Register** the antidumping duty order on wooden bedroom furniture from the PRC. *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) (''*Order*''). Our first notice to the public that we were initiating an administrative review with respect to wooden bedroom furniture was published on February 27, 2008, wherein we stated, in a footnote, that we would subsequently publish a separate initiation notice identifying all the exporters under review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 73 FR 10422 (February 27, 2008). On March 7, 2008, the Department published in the **Federal Register** this subsequent notice of initiation of administrative review, wherein we identified the exporters under review by name. *See Notice of Initiation of Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China,* 73 FR 12387 (March 7, 2008) (''*AR Initiation Notice*''). Additionally on March 7, 2008, the Department initiated new shipper reviews with respect to the following exporter/producer combinations: 1) Golden Well International (HK), Ltd./Zhangzhou XYM Furniture Product Co., Ltd. (collectively ''Golden Well''); and 2) Dongguan Sunshine Furniture Co., Ltd./ Dongguan Sunshine Furniture Co., Ltd. (''Sunshine''). *See Wooden Bedroom Furniture from the People's Republic of China; Initiation of New Shipper Reviews,* 73 FR 12392 (March 7, 2008) (''*NS Initiation Notice*'').

In the *AR Initiation Notice,* parties were notified that, due to the large number of firms requested for this administrative review and the resulting administrative burden of reviewing each company, the Department considered exercising its authority to limit the number of respondents selected for review in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (''the Act''). Accordingly, the Department requested that all companies listed in the *AR Initiation Notice* wishing to qualify for separate rate status in this administrative review complete, as appropriate, either a separate rate application or certification.[2] The Department also

[1] These 16 entities do not include the two new shipper respondents, one of whom is also subject to the administrative review. Both new shipper respondents have demonstrated that they are separate from the state-controlled entity; however, their margins will be based on the results of their respective new shipper reviews.

[2] In order to demonstrate separate rate eligibility, the Department requires companies for which a review was requested that were assigned a separate rate in the previous segment of this proceeding to certify that they continue to meet the criteria for obtaining a separate rate. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Final Results of 2005–2006 Administrative Review and Partial Rescission of Review,* 72 FR 56724 (October 4, 2007) (''*TRBs 2007*'') which was upheld by the Court of International Trade (''CIT'') in *Peer Bearing Co.* v. *United States,* Slip Op. 08–134 (Ct. Int'l Trade 2008)

stated in the *AR Initiation Notice* its intention to select respondents based on CBP data for U.S. imports for the POR. As such, the Department stated that companies for which a review was initiated should notify the Department within 30 days of publication of this notice if they had no shipments, entries, or sales of the subject merchandise under consideration during the POR.

For this administrative review, the Department determined to use value of exports instead of volume of exports in selecting the largest exporters. The Department based this determination on the fact that CBP data for volume of imports were reported in differing units of measure (*e.g.*, pieces, cubic meters, etc.) across the exporters and the Department did not have the information to convert the data into an equivalent unit of measure for all relevant imports. *See* Antidumping Duty Administrative Review of Wooden Bedroom Furniture from the People's Republic of China: Selection of Respondents, dated July 31, 2008 (''Selection of Respondents Memorandum''). On July 31, 2008, the Department selected: (1) Guangdong Yihua Timber Industry Co., Ltd., (a.k.a., Yihua Timber Industry Co., Ltd.) (''Yihua Timber''); and (2) Orient International Holding Shanghai Foreign Trading Co., Ltd. (''Orient International'') as mandatory respondents in this administrative review. *See* Selection of Respondents Memorandum.

On August 21, 2008, the Department issued its questionnaire to Yihua Timber and Orient International. *See* below for mandatory respondent-specific chronologies. On September 18, 2008, Orient International stated that it would no longer be participating in this administrative review, except with respect to briefing and a hearing, if held. *See* Letter from Orient International, dated September 18, 2008.

On August 22, 2008, the Department aligned the deadlines and the time limits of the new shipper reviews of WBF with the administrative review of WBF. *See* Memorandum to the File, ''Wooden Bedroom Furniture from the People's Republic of China: Alignment of the 1/1/2007–12/31/2007 Annual Administrative Review and the 1/1/2007–12/31/2007 New Shipper Review,'' dated August 22, 2008.

Between March 7, 2008, and June 5, 2008, several parties withdrew their requests for administrative review. On August 25, 2008, the Department published a notice rescinding the review with respect to the entities for which all review requests had been withdrawn. *See Wooden Bedroom Furniture from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 49990 (August 25, 2008).

On September 16, 2008, the Department requested comments on surrogate country selection from all interested parties. On September 30, 2008, domestic interested parties, the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (''Petitioners'') provided information regarding the selection of a surrogate country.[3] Also, on September 30, 2008, Yihua Timber submitted comments regarding the selection of a surrogate country.[4] On October 7, 2008, the Department received rebuttal surrogate country comments from both the Petitioners [5] and Yihua Timber.[6] On October 17, 2008, Petitioners' submitted a reply to Yihua Timber's October 7, 2008, rebuttal comments.[7] Also, on October 17, 2008, Yihua Timber responded to Petitioner's October 7, 2008, rebuttal comments.[8] On October 27, 2008, Petitioners submitted further rebuttal comments to Yihua Timber's October 17, 2008, submission.[9] No other party to the proceeding submitted information or comments concerning the selection of a surrogate country.

On October 6, 2008, the Department extended the deadline for the issuance of the preliminary results of the administrative review and new shipper reviews until January 30, 2008. *See Wooden Bedroom Furniture from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 73 FR 58113 (October 6, 2008).

Between March 13, 2008 and April 4, 2008, Petitioners and Kimball International, Inc., Kimball Furniture Group, Inc., and Kimball Hospitality Inc. (collectively ''Kimball'') submitted numerous comments pertaining to Kimball's standing as a domestic interested party. On November 4, 2008, the Department found that Kimball is a U.S. producer of wooden bedroom furniture for purposes of this antidumping administrative review and thus has standing as a U.S. producer of the like product to request administrative reviews of foreign exporters. *See* Memorandum to the File ''Whether Kimball International, Inc., Kimball Furniture Group, Inc. and Kimball Hospitality, Inc. (collectively, ''Kimball'') is a U.S. Domestic Producer of Wooden Bedroom Furniture: Administrative Review of Wooden Bedroom Furniture from the People's Republic of China'' (November 4, 2008).

On January 9, 2009, Lifestyle Enterprise, Inc. (''Lifestyle'') and Trade Masters of Texas, Inc. (''Trade Masters'') submitted comments arguing that the Department's current WBF administrative review is unlawful and must therefore be rescinded. *See* Letter from Lifestyle and Trade Masters, dated January 9, 2009. Lifestyle and Trade Masters asserted that the Department's administrative review is unlawful because, pursuant to 19 CFR 351.221(c)(1)(i), the Department is required to ''publish notice of initiation of the review no later than the last day of the month following the anniversary month.'' Lifestyle and Trade Masters further stated that 19 CFR 351.102(b) defines the ''anniversary month'' as ''the calendar month in which the anniversary of the date of publication of an order or suspension of investigation occurs,'' and thus, in this case the Department should have published its initiation notice by February 29, 2008. Additionally, Lifestyle and Trade Masters state that, on February 27, 2008, the Department published a notice in the **Federal Register** indicating that it was initiating a review, but then, in contradiction, stated that ''the administrative review for {case A–570–890} will be published in a separate initiation notice.'' Lifestyle and Trade Masters contend that on March 7, 2008, eight days after the deadline for initiating the review according to its own regulations, the Department published its initiation notice for this

(''*Peer Bearing*''). For companies that have not previously been assigned a separate rate, the Department requires that they demonstrate eligibility for a separate rate by submitting a separate rate application.

[3] *See* Letter from Petitioners titled, ''Wooden Bedroom Furniture From China Surrogate Country Comments,'' dated September 30, 2008.

[4] *See* Letter from Yihua Timber titled, ''Wooden Bedroom Furniture from the People's Republic of China, A–570–890: Comments on Surrogate Country Selection,'' dated September 30, 2008.

[5] *See* Letter from Petitioners titled, ''Wooden Bedroom Furniture From China: Rebuttal Surrogate Country Comments,'' dated October 7, 2008.

[6] *See* Letter from Yihua Timber titled, ''Wooden Bedroom Furniture from the People's Republic of China, A–570–890: Rebuttal Comments on Surrogate Country Selection,'' dated October 7, 2008.

[7] *See* Letter from Petitioners titled, ''Wooden Bedroom Furniture from China: Petitioners' Reply To Yihua Timber's Rebuttal Comments On Surrogate Country Selection,'' dated October 17, 2008.

[8] *See* Letter from Yihua Timber titled, ''Wooden Bedroom Furniture from the People's Republic of China, A–570–890: Further Rebuttal Comments on Surrogate Country Selection,'' dated October 17, 2008.

[9] *See* Letter from Petitioners titled, ''Wooden Bedroom Furniture from China: Petitioners' Reply to Yihua Timber's Further Rebuttal Comments On Surrogate Country Selection,'' dated October 27, 2008.

review. Lifestyle and Trade Masters therefore assert that the Department failed to initiate this review by the deadline in its own regulations, and accordingly, the review is unlawful and must be rescinded and terminated.

On January 16, 2009, Petitioners rebutted Lifestyle and Trade Masters submission. Petitioners stated the following: (1) The Department notice was timely filed; (2) the Act mandates an administrative review; and (3) the Department's practice has been to initiate a review, even if past the regulations deadline. *See* Letter from Petitioners, ''Pre-Preliminary Comments,'' dated January 16, 2009.

We have determined that our notice was timely and complied with our regulations for the following reasons. Our first notice to the public that we were initiating an administrative review with respect to wooden bedroom furniture published on February 27, 2008, prior to the close of the month following the anniversary month of the order. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 10422 (February 27, 2008). Although this notice did not contain the list of all of the exporters under review, a footnote to this notice stated that we would publish a separate initiation notice for this review. That subsequent notice, which listed all of the exporters under review, was published on March 7, 2008. Additionally, section 751 of the Act requires the Department to conduct an administrative review when timely and properly requested, as was done by multiple parties for this review. Thus, the Department was under an obligation to conduct an administrative review. Further, the Department has established its practice in regards to this proceeding; in two prior administrative reviews, the Department has published its initiation notice after the last day of the month following the anniversary month. *See Initiation of Antidumping and Countervailing Duty Administraive Reviews*, 72 FR 8969 (February 28, 2007); *Notice of Initiation of Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China*, 72 FR 10159 (March 7, 2007); *Initiation of Antidumping and Countervailing Duty Administraive Reviews*, 71 FR 9519 (February 24, 2006); *Notice of Initiation of Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China*, 71 FR 11394 (March 7, 2006). Furthermore, the Department has, on occasion, initiated an administrative review after the close of the month following the anniversary month of the relevant antidumping duty order. For example, when the Department has inadvertently omitted a case from the appropriate monthly initiation notice, the Department has initiated the review in the subsequent monthly initiation notice, notifying the public of its inadvertent omission from the prior month's initiation notice (*i.e.*, first publishing the notice of initiation for that review after the close of the month following the anniversary month of the respective order). *See, e.g., Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 56745 (September 22, 2004); *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 30282 (May 27, 2004). Therefore, consistent with Department practice, we have determined to continue with this administrative review.

Moreover, Lifestyle and Trade Masters do not claim that they were prejudiced by the alleged untimely notice. *See* Letter from Lifestyle and Trade Masters, dated January 9, 2009. Although their February 29, 2008, application for confidential information under Administrative Protective Order (''APO'') was rejected by the Department on the grounds that the application was untimely, Lifestyle and Trade Masters' subsequent application for APO access, submitted November 25, 2008, was granted by the Department on December 3, 2008. Thus, there is no evidence that Lifestyle and Trade Masters were denied due process because their initial APO application was rejected, nor is there evidence that Lifestyle and Trade Masters suffered any actual harm due to the Department's allegedly untimely initiation of this review.

As noted above, the Department issued its antidumping questionnaire to the two mandatory respondents and two new shippers. Upon receipt of the various responses, the Department issued supplemental questionnaires. Yihua Timber, Golden Well, and Sunshine timely responded to the original and supplemental questionnaires.

On September 11, 2008, Orient International timely submitted its response to section A of the original questionnaire. However, on September 18, 2008, Orient International submitted a statement that it would no longer participate in this administrative review and did not respond to either sections C or D of the antidumping duty questionnaire.

On January 14, 2009, the Department requested that Golden Well place its new shipper review response to section A of the original questionnaire and its response to the section A supplemental questionnaires on the administrative review record. *See* Memorandum to the File: Antidumping Duty New Shipper Review on Wooden Bedroom Furniture from the People's Republic of China: Request for Greenberg Traurig to Place Responses to Section A and Section A Supplemental Questionnaires on the Administrative Review Record, dated January 14, 2009.

Period of Review

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

Scope of the Order

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

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

on-chests,[10] highboys,[11] lowboys,[12] chests of drawers,[13] chests,[14] door chests,[15] chiffoniers,[16] hutches,[17] and armoires; [18] (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; [19] (9) jewelry armoires; [20] (10) cheval mirrors; [21] (11) certain metal parts; [22] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; and (13) upholstered beds.[23]

Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as ''wooden * * * beds'' and under subheading 9403.50.9080 of the HTSUS as ''other * * * wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as ''parts of wood'' and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as ''glass mirrors * * * framed.'' This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Bona Fide Analysis

Consistent with the Department's practice, the Department investigated the *bona fide* nature of the sales made by Golden Well and Sunshine for these reviews. In evaluating whether or not sales in an NSR are commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) The timing of the sale(s); (2) the price and quantity of the sale(s); (3) the expenses arising from the transaction(s); (4) whether the goods were resold at a profit; and (5) whether the transaction(s) was (were) made on an arm's-length basis. *See, e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd.* v. *United States*, 366 F. Supp. 2d 1246, 1250 (Ct. Int'l Trade 2005). Accordingly, the Department considers a number of factors in its *bona fide* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd.* v. *United States*, 374 F. Supp. 2d 1333, 1342 (Ct. Int'l Trade 2005) (*citing Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002), and accompanying Issues and Decision Memorandum).

The Department preliminarily finds that the new shipper sales made by Golden Well and Sunshine are *bona fide* for antidumping purposes. Specifically, the Department finds that: (1) The price and quantity of each new shipper sale was within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States during the POR; (2) the new shippers and their respective customers did not incur any extraordinary expenses arising from the transactions; (3) each new shipper sale was made between unaffiliated parties at arm's length; (4) the record evidence indicates that each new shipper sale was based on commercial principles; (5) the merchandise was resold at a profit; and (6) the timing of each of the new

[10] 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.

[11] 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).

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

[13] A chest of drawers is typically a case containing drawers for storing clothing.

[14] 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.

[15] 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.

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

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

[18] 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.

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

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

[21] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50″ that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

[22] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 9403.90.7000.

[23] 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).

shipper sales does not indicate the sales were made on a non-*bona fide* basis. *See* Memorandum to the File ''Antidumping Duty New Shipper Reviews of Wooden Bedroom Furniture from the People's Republic of China: *Bona Fide* Nature of the Sales Under Review for Dongguan Sunshine Furniture Co., Ltd. and Golden Well International (HK), Ltd.,'' dated January 30, 2009. Therefore, the Department has preliminarily found that Golden Well's and Sunshine's sales of subject merchandise to the United States were *bona fide* for purposes of these NSRs.

Partial Rescission of Administrative Review

On October 8 and 10, 2008, RiZhao SanMu Woodworking Co., Ltd. (''SanMu'') and Petitioners, respectively, withdrew their administrative review requests with respect to SanMu. Although both parties submitted their withdrawal requests after the 90-day regulatory deadline at 19 CFR 351.213(d)(1), the Department had already completed its selection of mandatory respondents and SanMu was not selected as a mandatory respondent in this administrative review. Therefore, the Department's selection process of the mandatory respondents for this administrative review was not compromised by the timing of the review request withdrawals. Furthermore, the Department had not expended any resources in its review of SanMu as of the date the parties withdrew their requests for review. Therefore, the Department is rescinding the administrative review with respect to SanMu.

The Department is also rescinding this review with respect to Shanghai Aosen Furniture Co., Ltd., and Yeh Brothers World Trade Inc. as each submitted ''no shipment'' letters on April 7, 2008, and the Department's review of the CBP import data did not reveal any contradictory information. *See* ''No Shipment'' Letters from Shanghai Aosen Furniture Co., Ltd., and Yeh Brothers World Trade Inc., dated April 7, 2008.

Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (''NME'') country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003). None of the parties to this proceeding have contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV on the NME producer's factors of production (''FOP''). The Act further instructs that valuation of the FOPs is to be based on the best available information in a surrogate market economy country or countries considered to be appropriate by the Department. *See* section 773(c)(1) of the Act. When valuing the FOPs, the Department utilizes, to the extent possible, the prices or costs of FOPs in one or more market economy countries that is: (1) At a level of economic development comparable to that of the NME country; and (2) has significant production of comparable merchandise. *See* Section 773(c)(4) of the Act. Further, the Department typically values all FOPs in a single surrogate country. *See* 19 CFR 351.408(c)(2). The sources of the surrogate values (''SV'') are discussed under the NV section below and in the Memorandum to the File, ''2007 Administrative and New Shipper Reviews of Wooden Bedroom Furniture from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Results'' (''Factor Valuation Memorandum''), which is on file in the Central Records Unit (''CRU''), Room 1117 of the main Department building.

In examining which country to select as its primary surrogate for this proceeding, the Department first determined that India, Indonesia, the Philippines, Colombia, and Thailand are at a level of economic development comparable to the PRC. *See* ''Administrative Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China: Request for a List of Surrogate Countries,'' dated September 2, 2008 (''Surrogate Country Memo''). As stated, both Petitioners and Yihua Timber submitted comments on surrogate country selection. Petitioners argue that India is the appropriate surrogate country, while Yihua Timber argues that the Philippines should be used.

After evaluating the interested parties' comments, the Department determined that the Philippines and India are both: (1) At a level of economic development comparable to the PRC; (2) significant producers of comparable merchandise; and (3) provide contemporaneous publicly available data to value FOPs. Because the data from both India and the Philippines is relatively equal in terms of quality, availability, and general contemporaneity, we have broadened our analysis. Specifically, we have determined that the Philippine surrogate financial data provide for greater contemporaneity with the POR than the Indian surrogate financial data. Further, we note that we selected the Philippines as the primary surrogate country in the prior segment of this proceeding. For a complete discussion, *see* Memorandum to the File: Third Administrative Review and Fifth New Shipper Reviews of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China: Surrogate Country Selection—Period of Review 1/1/07–12/31/07 (January 30, 2009). Accordingly, the Department has calculated NV using Philippine prices to value the respondents' FOPs, when available and appropriate. The Department has obtained and relied upon publicly available information wherever possible. *See* Factor Valuation Memorandum. In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information to value FOPs until 20 days after the date of publication of these preliminary results.

Separate Rates

In the *AR Initiation Notice,* the Department notified parties of the recent application process by which exporters and producers may obtain separate-rate status in NME investigations. *See AR Initiation Notice.* The process requires exporters and producers to submit a separate-rate status application.[24]

[24] *See also Policy Bulletin 05.1: Separate-Rate Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,* (April 5, 2005), at 6, available at *http://ia.ita.doc.gov/policy/bull05–1.pdf.* (''*Policy Bulletin 05.1*''). Policy Bulletin 05.1 states, in relevant part, ''* * * while continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applied both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both

However, the standard for separate rate eligibility has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''Silicon Carbide''). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

A. Separate Rate Recipients

1. Wholly Foreign-Owned

Nine separate-rate applicants in the administrative review and one new shipper respondent provided evidence that they are wholly owned by individuals or companies located in a market economy in their separate-rate applications/certifications (collectively ''Foreign-owned SR Applicants''). Therefore, because they are wholly foreign-owned and the Department has no evidence indicating that they are under the control of the PRC, a separate rates analysis is not necessary to determine whether these companies are independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China,* 64 FR 71104 (December 20, 1999) (where the respondent was wholly foreign-owned, and thus, qualified for a separate rate). Accordingly, the Department has preliminarily granted a separate rate to these Foreign-owned SR Applicants. *See Preliminary Results of Review* section below for companies marked See Preliminary Results of Review with a ''^'' designating these companies as wholly foreign-owned (collectively ''Foreign-owned SR Recipients'').

2. Located in a Market Economy With No PRC Ownership

None of the separate-rate applicants in this administrative review are located outside the PRC.

3. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Seven of the separate-rate applicants in this administrative review and one of the new shipper respondents stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies (collectively *PRC SR Applicants*). The Department has analyzed whether each PRC SR Applicant has demonstrated the absence of *de jure* and *de facto* governmental 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 license; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers,* 56 FR at 20589.

The evidence provided by the eight PRC SR Applicants supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) there are applicable legislative enactments decentralizing control of PRC companies; and (3) there are formal measures by the government decentralizing control of PRC companies.

b. Absence of *De Facto* Control

The Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has 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 disposition of profits or financing of losses. *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). 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 governmental control which would preclude the Department from assigning separate rates.

The evidence provided by the eight SR Applicants supports a preliminary finding of *de facto* absence of governmental control based on the following: (1) An absence of restrictive governmental control on the PRC SR Applicants' export prices; (2) a showing of the PRC SR Applicants' authority to negotiate and sign contracts and other agreements; (3) a showing that the PRC SR Applicants maintain autonomy from the government in making decisions regarding the selection of management; and (4) a showing that the PRC SR Applicants retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

In all, the evidence placed on the record of this investigation by the eight PRC SR Applicants demonstrates an absence of *de jure* and *de facto* government control, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide.* Accordingly, the Department has preliminarily granted a separate rate to the PRC SR Applicants. *See* ''Preliminary Results of Review'' section below for companies marked with an ''*'' designating these companies as joint ventures between Chinese and foreign companies or wholly Chinese-owned companies (collectively referred to as ''PRC SR Recipients'').

B. Companies Not Receiving a Separate Rate

In the *AR Initiation Notice,* we requested that all companies listed therein wishing to qualify for separate rate status in this administrative review submit, as appropriate, either a separate rate status application or certification. *See AR Initiation Notice.* The following five exporters did not provide, as appropriate, either a separate rate application or certification: (1) Dongguan Bon Ten Furniture Co., Ltd. (''Bon Ten''); (2) Dongguan Qingxi Xinyi Craft Furniture Factory (Joyce Art

exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.'' *See Policy Bulletin 05.1,* at 6.

Factory) (''Joyce Art''); (3) Tianjin Sande Fairwood Furniture Co. Ltd. (''Sande''); (4) Yida Co. Ltd., Yitai Worldwide Ltd., Yili Co., Ltd., and Yetbuild Co., Ltd. (collectively ''Yida''); and (5) Hamilton & Spill, Ltd. (''Hamilton''), and therefore have not demonstrated their eligibility for separate rate status in this administrative review.

Therefore, the Department preliminarily determines that there were exports of merchandise under review from PRC exporters that did not demonstrate their eligibility for separate-rate status. As a result, the Department is treating these PRC exporters as part of the PRC-wide entity.

Further, on April 4, 2008, Dream Rooms Furniture (Shanghai) Co., Ltd. (''Dream Rooms'') submitted a separate rate certification to the Department. *See* Letter from Dream Rooms, dated April 4, 2008. On June 24, 2008, White & Case LLP (''White & Case'') withdrew its notice of appearance on behalf of Dream Rooms. *See* Letter from White & Case, dated June 14, 2008. On January 7, 2009, the Department issued a supplemental questionnaire to Dream Rooms requiring clarification of the information that Dream Rooms submitted in its separate rate certification. *See* the Department's January 7, 2009, supplemental questionnaire to Dream Rooms. In the absence of legal representation in the United States, the Department attempted to contact Dream Rooms via direct mail. However, Dream Rooms failed to respond to this supplemental questionnaire.

Because Dream Rooms did not respond to the Department's request for clarification regarding its separate rate certification on the record of this review, the Department is unable to determine if Dream Rooms operates free from PRC government control for purposes of this review. It is the Department's practice to require a party to submit the evidence necessary for the Department to determine that it operates independently of the state-controlled entity in each segment of a proceeding in which it requests separate rate status. *See TRBs 2007* and *Peer Bearing.* Thus, because Dream Rooms' separate-rate certification is deficient, Dream Rooms has not demonstrated its eligibility for separate-rate status in this administrative review. *See* section 776(a)(2)(D) of the Act. Consequently, the Department is treating Dream Rooms as part of the PRC-wide entity.

Margins for Separate-Rate Recipients

For the Separate Rate Recipients subject to this administrative review that were not selected as mandatory respondents, we have established a weighted-average margin based on an average of the rates we calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on adverse facts available. That rate is 124.31 percent. Entities receiving this rate are identified by name in the ''Preliminary Results of Review'' section of this notice.

Use of Facts Available and Adverse Facts Available

Section 776(a) of the Act provides that the Department shall apply ''facts otherwise available'' if (1) necessary information is not on the record, or (2) an interested party or any other person (A) Withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority'' if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

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

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See Statement of Administrative Action,* reprinted in H.R. Doc. No. 103–216, at 870 (1994) (''*SAA*''). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

A. Application of Partial Facts Available for Yihua Timber

Yihua Timber reported both gross weights (on a finished, packed per-product basis) and FOP weights on a per-product basis.[25] FOP weights represent the weight of the inputs that went into making the finished, packed product. In furniture production, the FOP weights should be higher than the gross weight of the finished product because, generally, there is a yield loss associated with WBF production. However, in its supplemental questionnaire response, Yihua Timber's reported product-specific FOP weights appeared to be insufficient to account for its reported product-specific gross weights. Yihua Timber provided a subsequent submission, stating that: (1) Its reported gross weights are estimates that came from its packing lists; and (2) while the gross weights are estimates and may not be accurate, the reported FOP input weights are accurate and, thus, there is no need to adjust them in the margin calculation. To demonstrate its claim with respect to the gross weights, Yihua Timber weighed two products and provided revised gross weights for these two products. Yihua Timber concludes that although the revised gross weights are still higher than the FOP weights, these differences are minor and stem from the application of an overall variance to individual

[25] Yihua Timber reported certain inputs on a cubic meter basis with information to convert the data to a kilogram basis.

product standards in deriving its FOP weights. Yihua Timber concludes that while for some products the FOP weights will be lower than the actual gross weight, for other products, the FOP weights will be greater than the actual gross weights and, therefore, we should continue to rely on its reported data. Further, Yihua Timber claims that while the absolute product-specific gross weights (as originally reported) are not accurate, the relative weight differences among products are valid, and therefore, the Department should use the reported gross weights as the allocation basis for Yihua Timber's reported movement expenses. We do not agree with Yihua Timber's conclusions with respect to its reported data.

With respect to the two products Yihua Timber weighed, as it noted, the FOP weights are insufficient to account for the revised gross weights reported. However, we do not agree that the differences are minor. Moreover, because Yihua Timber weighed only two products, based on the record data, we are unable to determine the extent of underreported FOP weights or confirm Yihua Timber's contention that the reported FOP weights are greater than the actual gross weights for some products. Accordingly, we preliminarily determine to base the FOPs for all products on facts otherwise available in accordance with section 776(a) of the Act. Therefore, as facts available, we will increase the reported FOP weights for each product by the average of the differences between the reported FOP weights and the actual gross weights of the two products that Yihua Timber weighed. We are also not preliminarily granting the by-product offset because any such offset appears to result in FOP weights that are insufficient to produce the merchandise under review.

In addition, with respect to movement charges being valued with surrogate values, we are preliminarily applying the movement charges to the revised FOP weights discussed above. With regard to movement charges being valued based on market economy purchases, because we do not have the aggregate movement expense data, we are unable to reallocate it over the revised weights. Therefore, we will continue to use those expenses as reported for purposes of the preliminary determination.

We intend to issue a post-preliminary results supplemental questionnaire to Yihua Timber, to address each of these issues. As appropriate, we will consider any additional data and the results of verification for purposes of completing the final results of review.

B. Application of Partial Adverse Facts Available for Yihua Timber

In our original questionnaire, consistent with our standard practice, we requested that each respondent report all of its U.S. sales to the first unaffiliated U.S. customer. In Yihua Timber's initial questionnaire response, some of the sales reported in Yihua Timber's U.S. sales database were transactions between one of Yihua Timber's affiliated U.S. companies, New Classic Home Furnishings Inc. (''New Classic''), and another affiliated U.S. company (*i.e.*, Company A).[26] *See* Yihua Timber's Section C response, dated October 15, 2008.

The Department issued a supplemental section C questionnaire to Yihua Timber requesting, among other things, that Yihua Timber ''revise {its} U.S. sales database so that it reflects sales * * * to the first unaffiliated customer,'' and ''provide complete section C responses (including sales reconciliations).* * *'' *See* the Department's December 12, 2008, supplemental questionnaire. In response to the Department's supplemental questionnaire, Yihua Timber provided incomplete information regarding Company A's downstream sales to unaffiliated parties. Specifically, Yihua Timber did not provide sufficient evidence (*e.g.*, a sales reconciliation) to support its contention that only a portion of the sales reported in Company A's financial statements reflected sales of subject merchandise. Thus, Yihua Timber has not successfully demonstrated that it appropriately excluded the non-reported sales, which represent a significant portion of the sales on Company A's financial statements, and thereby failed to demonstrate that it had accounted for all of Company A's sales of wooden bedroom furniture in that databases.

Further, Yihua Timber failed to provide certain costs and expenses associated with Company A sales that it did report. Consequently, we do not have complete and appropriate data on the record to calculate accurate dumping margins with respect to Yihua Timber's U.S. sales through its affiliate, Company A. Accordingly, we preliminarily determine to base the margins for these sales on facts otherwise available in accordance with section 776(a) of the Act.

Because the Department requested information concerning unaffiliated sales in both its original and supplemental questionnaires, it is clear from the record that Yihua Timber was aware of its obligation to submit a complete section C response and sales reconciliation for Company A. Further, because Yihua Timber did not indicate that it could not provide this information, we find that Yihua Timber failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information.

Accordingly, the Department preliminarily determines that, when selecting from among the facts otherwise available with respect to Yihua Timber's U.S. sales through Company A, an adverse inference is warranted pursuant to section 776(b) of the Act. For a discussion of the rate we applied as adverse facts available to these sales *see* the section below entitled *Selection of the Adverse Facts Available Rate.* We intend to issue a post-preliminary results supplemental questionnaire to Yihua Timber to address this issue. As appropriate, we will consider any additional data and the results of verification for purposes of completing the final results of review.

C. Application of Total Adverse Facts Available

1. Hamilton

On April 7, 2008, Hamilton submitted a letter to the Department stating that it had no shipments of the subject merchandise to the United States. *See* Letter from Hamilton, dated April 7, 2008. Subsequently, the Department conducted independent research to confirm Hamilton's response of no shipments by reviewing import information obtained from CBP. On January 15, 2009, the Department issued a supplemental questionnaire to Hamilton to inquire about a discrepancy found between Hamilton's statement of no shipments and the CBP data. *See* the Department's January 15, 2009, supplemental questionnaire to Hamilton. On January 22, 2009, Hamilton responded to the Department's supplemental questionnaire stating that when it performed its original internal data search for shipments of subject merchandise during the POR, it inadvertently limited the search to shipments over a certain dollar amount and thereby missed any transactions under that dollar value. As a result, Hamilton reported that it did not have sales of subject merchandise during the POR. In its January 22, 2009 supplemental response, Hamilton argues that the POR shipments consisted of replacement parts that are out of scope merchandise and an

[26] Due to the proprietary nature of this information, we are calling this affiliate ''Company A.''

insignificant quantity of subject merchandise with a ''*de minimis*'' value that constituted a sample sale. Hamilton requests that the Department apply facts available without an adverse inference and allow it to maintain its status as eligible for a separate rate. *See* Hamilton's Supplemental Response, dated January 22, 2009.

Hamilton, however, did not submit a separate rate certification on the record of this review. Thus, the Department is unable to determine if Hamilton operates free from PRC government control for purposes of this review. It is the Department's practice to require a party to submit evidence that it operates independently of the state-controlled entity in each segment of a proceeding in which it requests separate rate status. *See TRBs 2007* and *Peer Bearing.* Thus, we find that Hamilton has not demonstrated its eligibility for separate-rate status in this administrative review and is, consequently, part of the PRC-wide entity. *See* section 776(a)(2)(D) of the Act.

Further, based on record evidence, Hamilton, as part of the PRC-wide entity, did not supply the requested information on its shipments of subject merchandise to the United States and, by not doing so, withheld necessary information. Because Hamilton, as part of the PRC-wide entity, limited its examination of its complete database to a certain subset, it misreported that it did not have shipments during the POR. Additionally, when the Department presented information from CBP to Hamilton and allowed it an opportunity to reconcile the discrepancy between the CBP information and what it reported, Hamilton submitted invoices that did not reflect the quantity or value information reflected in the CBP data. Thereby, Hamilton, was unable to substantiate its claims with respect to the U.S. import data. Therefore, we preliminarily find that the PRC-wide entity, which includes Hamilton, withheld requested information and impeded the Department's proceeding because it did not accurately report that it had shipments of subject merchandise to the United States during the POR. Accordingly, we have preliminary determined to base the PRC-wide entity's margin on facts otherwise available. *See* section 776(a) of the Act. Further, because the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with the Department's request for information, we preliminary determine that, when selecting from among the facts otherwise available, an adverse inference is warranted for the PRC-wide entity pursuant to section 776(b) of the Act. For a discussion of the rate we applied as adverse facts available to the PRC-wide entity *see* the section below entitled *Selection of the Adverse Facts Available Rate*.

2. Orient International

On April 4, 2008, Orient International submitted its separate-rate certification. On July 31, 2008, the Department selected Orient International as a mandatory respondent in this administrative review. *See* Selection of Respondents Memorandum. On August 21, 2008, the Department issued its questionnaire to Orient International. On September 12, 2008, Orient International submitted its response to Section A of the Department's questionnaire. Although Orient International responded to Section A of the questionnaire and submitted a separate rate certification, Orient International did not respond to Sections C and D of the Department's questionnaire. On September 18, 2008, Orient International submitted a document stating: (1) It would no longer participate in this review; and (2) it is not withdrawing its notice of appearance or its separate rate certification, and intends to participate in briefing and any hearings held in this review. Further, Orient International requested that the Department: (1) Allow it to remove certain business proprietary data submitted under administrative protective order (''APO''); (2) return or destroy its business proprietary versions of its Section A response filed on September 11 and 12, 2008; and (3) instruct all parties on the APO service list to return or destroy all such data as well. *See* Letter from Orient International, dated September 18, 2008.

Although Orient International's separate rate certification remains on the record of this review, because the respondent ceased to participate, the Department is unable to verify the accuracy of this information, as provided by section 782(i) of the Act. Thus, we find that Orient International has not demonstrated its eligibility for separate-rate status in this administrative review and is, consequently, part of the PRC-wide entity. *See* Section 776(a)(2)(D) of the Act.

Further, from the record evidence, it is clear that Orient International was aware of its obligation to submit its Section C and D questionnaire responses and it failed to do so. In addition, Orient International has requested that the Department allow it to remove certain business proprietary data submitted under APO and return or destroy its business proprietary versions of its Section A responses filed on September 11 and 12, 2008. *See* Letter from Orient International, dated September 18, 2008. Thus, we preliminarily find that Orient International, as part of the PRC-wide entity, withheld requested information and significantly impeded the Department's proceeding. Accordingly, we preliminarily determine to base the PRC-wide entity's margin, which includes Orient International, on facts otherwise available, pursuant to section 776(a) of the Act. Further, because the PRC-wide entity, which includes Orient International, determined not to participate in the administrative review, as discussed above, we find that the PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. Accordingly, the Department preliminarily determines that, when selecting from among the facts otherwise available, an adverse inference is warranted for the PRC-wide entity, pursuant to section 776(b) of the Act. For a discussion of the rate we applied as adverse facts available to the PRC-wide entity *see* the section below entitled *Selection of the Adverse Facts Available Rate.*

Application of Total Adverse Facts Available to the PRC-Wide Entity

As noted above, the Department has determined that several companies are part of the PRC-wide entity; as a result, the PRC-wide entity is now under review. Pursuant to section 776(a) of the Act, the Department further finds that, as discussed above, the PRC-wide entity failed to respond to the Department's questionnaires, withheld required information, and/or submitted information that cannot be verified, thus significantly impeding the proceeding. Thus, the Department concludes, it is appropriate to apply a preliminary dumping margin to the PRC-wide entity using the facts otherwise available on the record. Also as discussed above, because the PRC-entity failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, we find an adverse inference is appropriate, pursuant to section 776(b) of the Act, for the PRC-wide entity.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) The petition, (2) a final determination in the investigation, (3)

any previous review or determination, or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8932 (February 23, 1998). Further, it is the Department's practice to select a rate that ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA. See also Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review,* 70 FR 69937, 69939 (November 18, 2005).

Generally, the Department finds that selecting the highest rate from any segment of the proceeding as AFA is appropriate. *See, e.g., Certain Cased Pencils from the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part,* 70 FR 76755, 76761 (December 28, 2005). The Court of International Trade (''CIT'') and the Court of Appeals for the Federal Circuit (''Federal Circuit'') have affirmed decisions to select the highest margin from any prior segment of the proceeding as the AFA rate on numerous occasions. *See, e.g., Rhone Poulenc, Inc.* v. *United States,* 899 F. 2d 1185, 1190 (Fed. Cir. 1990) (affirming the Department's presumption that the highest margin was the best information of current margins) (''*Rhone Poulenc*''); *NSK Ltd.* v. *United States,* 346 F. Supp. 2d 1312, 1335 (Ct. Int'l Trade 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in the investigation); *Kompass Food Trading International* v. *United States,* 24 CIT 678, 683 (2000) (affirming a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd.* v. *United States,* 360 F. Supp. 2d 1339, 1348 (Ct. Int'l Trade 2005) (affirming a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondents' prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *See Rhone Poulenc,* 899 F. 2d at 1190.

As AFA, we have preliminarily assigned to the PRC-wide entity in total and to Yihua in part, a rate of 216.01 percent, from the 2004–2005 new shipper reviews of WBF from the PRC, which is the highest rate on the record of all segments of this proceeding. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department's reliance on the highest calculated rate from the 2004–2005 new shipper review to determine an AFA rate is subject to the requirement to corroborate secondary information. *See* the *Corroboration of Secondary Information* section below.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. *See SAA* at 870. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996) (unchanged in the final determination) *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan,* 62 FR 11825 (March 13, 1997). Independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan,* 68 FR 35627 (June 16, 2003) (unchanged in final determination) *Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra High Voltage Ceramic Station Post Insulators from Japan,* 68 FR 62560 (November 5, 2003); and *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada,* 70 FR 12181, 12183–84 (March 11, 2005).

The AFA rate that the Department is now using was determined in the published final results of the previous new shipper review. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004–2005 Semi-Annual New Shipper Reviews,* 71 FR 70739, 70741 (December 6, 2006). In the new shipper review, the Department calculated a company-specific rate, which was above the PRC-wide rate established in the investigation. Because this new rate is a company-specific calculated rate concerning subject merchandise, we have determined this rate to be reliable.

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

calculations of the mandatory respondent in the instant administrative review with the 216.01 percent calculated rate from the 2004–2005 new shipper review. The Department found that the margin of 216.01 percent was within the range of the margins calculated on the record of the instant administrative review. Because the record of this administrative review contains margins within the range of 216.01 percent, we determine that the rate from the 2004–2005 review continues to be relevant for use in this administrative review.

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

Because these are preliminary results of review, the Department will consider all margins on the record at the time of the final results of review for the purpose of determining the most appropriate final adverse margin. *See Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 1139, 1141 (January 7, 2000).

Export Price

For Golden Well and Sunshine, the Department based the U.S. price on export price (''EP''), in accordance with section 772(a) of the Act, because EP is the price at which the 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. Additionally, the Department calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States.

For Golden Well, we calculated EP based on delivered prices to unaffiliated purchaser(s) in the United States. We made deductions from the U.S. sales price for a movement expense in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight—plant/warehouse to port of exit, foreign brokerage and handling, U.S. brokerage and handling, and U.S. Customs duties. *See* Memorandum titled ''Antidumping Duty New Shipper Review: Wooden Bedroom Furniture from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Golden Well (HK) International Ltd. (''Analysis Memo Golden Well''), dated January 30, 2009.

For Sunshine, we calculated EP based on delivered prices to unaffiliated purchaser(s) in the United States. We made deductions from the U.S. sales price for a movement expense in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight—plant/warehouse to port of exit, and foreign brokerage and handling. We deducted these expenses from the gross unit price, in accordance with section 772(c) of the Act. For a detailed description of all adjustments, *see* Memorandum titled, ''Antidumping Duty New Shipper Review: Wooden Bedroom Furniture from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Dongguan Sunshine Furniture Co., Ltd.'' (''Analysis Memo Sunshine''), dated January 30, 2009.

At the time of initiation of the new shipper review covering Sunshine's sales of subject merchandise, the Department was unable to locate Sunshine's entries of subject merchandise in CBP import data. In Sunshine's supplemental questionnaire response dated December 22, 2008, Sunshine explained that the importer's customs broker entered Sunshine's merchandise under an incorrect manufacturer number. The importer's customs broker submitted a corrected Entry Summary form showing the correct manufacturer number for Sunshine to CBP under a cover letter dated December 11, 2007. *See* Sunshine's December 22, 2008 Supplemental Questionnaire Response, at pgs. 5–6 and Exhibit SQ2–4.

Constructed Export Price

In accordance with section 772(b) of the Act, constructed export price (''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 sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for Yihua Timber's sales (with the exception of the sales to which we applied adverse facts available, as discussed above) because the sales were made by U.S. affiliates in the United States.

We calculated CEP based on delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(d)(1) of the Act, we made deductions from the starting price for billing adjustments, movement expenses, discounts and rebates. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where applicable, foreign inland freight from plant to the port of exportation, foreign brokerage and handling, ocean freight, marine insurance, U.S. inland freight from port to the warehouse, U.S. freight from warehouse to customer, U.S. warehousing, U.S. customs duty, and U.S. brokerage and handling. In accordance with section 772(d)(1) of the Act, the Department deducted, where applicable, commissions, credit expenses, inventory carrying costs, factoring expense, warranty expense, and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 773(a) of the Act, we calculated Yihua Timber's credit expenses and inventory carrying costs based on the company's short-term interest rate. We deducted these expenses from the gross unit price, in accordance with section 772(c) of the Act. For a detailed description of all adjustments, *see* Memorandum titled ''Antidumping Duty Administrative Review: Wooden Bedroom Furniture from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Guangdong Yiua Timber Industry Co., Ltd.,'' (''Yihua Timber Analysis Memo'') dated January 30, 2009.

We have denied one of Yihua Timber's billing adjustments because Yihua Timber has not provided evidence showing that this adjustment should be an adjustment to gross unit price. For a complete discussion of this issue, *see* Yihua Timber Analysis Memo. Both Petitioners and Yihua Timber commented on the FOP input weights and gross weights reported by Yihua Timber which we will examine further after issuance of these preliminary results. For these preliminary results, we have utilized Yihua Timber's reported gross weight selling expenses, and unadjusted FOPs in calculating Yihua Timber's preliminary margin. *See* Yihua Timber Analysis Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) 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. When determining NV in an NME context, the Department will base NV on FOPs, because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 772(c)(3) of the Act, FOPs include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department used FOPs reported by respondents for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market economy currency, the Department will normally value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Lasko Metal Products, Inc.* v. *United States,* 43 F.3d 1442, 1446 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market economy purchase prices and use SVs to determine the NV. S*ee Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of the 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part,* 66 FR 1953 (January 10, 2001) (''*TRBs 1998–1999*''), and accompanying Issues and Decision Memorandum at Comment 1.

It is the Department's consistent practice that, where the facts developed in either U.S. or third-country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry specific export subsidies), it is reasonable for the Department to find that it has a reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized. *See TRBs 1998–1999* at Comment 1; *see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part,* 66 FR 57420 (November 15, 2001), and accompanying Issues and Decision Memorandum at Comment 1; *see also China National Machinery Imp. & Exp. Corp.* v. *United States,* 293 F. Supp. 2d 1334, 1338–39 (Ct. Int'l Trade 2003).

In avoiding the use of prices that may be subsidized, the Department does not conduct a formal investigation to ensure that such prices are not subsidized, but rather relies on information that is generally available at the time of its determination. *See also SAA* at 590.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by respondents for the POR. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Philippine SVs (except as noted below). In selecting the SV, the Department considered the quality, specificity, and contemporaneity of the data. As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to Philippine import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp.* v. *United States,* 117 F.3d 1401 (Fed. Cir. 1997). Due to the extensive number of SVs it was necessary to assign in this administrative review, we present a discussion of the main factors. For a detailed description of all SVs used to value the respondents reported FOPs, *see* Factor Valuation Memorandum.

Golden Well reported that certain of its reported raw material inputs were sourced from a market-economy country and paid for in market-economy currencies. Both Sunshine and Yihua Timber did not report any raw material inputs sourced from a market-economy country.

Pursuant to 19 CFR 351.408(c)(1), when a mandatory respondent sources inputs from a market-economy supplier in meaningful quantities (*i.e.*, not insignificant quantities), we use the actual price paid by respondents for those inputs, except when prices may have been distorted by findings of dumping by the PRC and/or subsidies. *See* 19 CFR 351.408(c)(1); *see also Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27366 (May 19, 1997). Golden Well reported information demonstrating that the quantities of certain raw materials purchased from market-economy suppliers are significant. Where we found market-economy purchases to be in significant quantities, in accordance with our statement of policy as outlined in *Antidumping Methodologies: Market Economy Inputs,* we have used the actual purchases of these inputs to value the inputs. *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716 (October 19, 2006) (''*Antidumping Methodologies: Market Economy Inputs*''); *See also,* Analysis Memo Golden Well.

We used import values from the World Trade Atlas® online (''Philippine Import Statistics''), which were published by the Philippines National Statistics Office (''Philippines NSO''), which were reported in U.S. dollars and are contemporaneous with the POR, where market-economy purchases were not made in significant quantities, to value the following inputs: processed woods (*e.g.*, particleboard, etc.), adhesives and finishing materials (*e.g.*, glue, paints, sealer, lacquer, etc.), hardware (*e.g.*, nails, staples, screws, bolts, knobs, pulls, drawer slides, hinges, clasps, etc.), other materials (*e.g.*, mirrors, glass, leather, cloth, sponge, etc.), and packing materials (*e.g.*, cardboard, cartons, plastic film, labels, tape, etc.). *See* Factor Valuation Memorandum. We used import values published by the Philippines NSO, which are available upon request from the Philippines NSO, which were reported in U.S. dollars, contain import quantities in cubic decimeters, and are contemporaneous with the POR to value the following inputs: wood inputs (*e.g.*, lumber of various species), wood veneer of various species, and processed woods (*e.g.*, plywood, etc.). For a complete listing of all the inputs and the valuation for each mandatory respondent *see* Factor Valuation Memorandum.

Where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the SVs using, where appropriate, the Philippines Wholesale Price Index (''WPI''), available at the Philippines NSO Web site: *http://*

www.census.gov.ph/data/sectordata/datawpi.html.

For the purposes of the preliminary results, the Department has used *http://www.allmeasures.com* and other publicly available information where interested parties did not submit conversion rates or information to calculate conversion rates for specific FOPs.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2008, available at *http://ia.ita.doc.gov/wages/index.html*. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondents. If the NME wage rates are updated by the Department prior to issuance of the final determination, we will use the updated wage rate in the final determination. *See* Factor Valuation Memorandum.

To value electricity, we used data from *The Cost of Doing Business in Camarines Sur* available at the Philippine government's Web site for the province: *http://www.camarinessur.gov.ph*. Because the value for electricity was not contemporaneous with the POR, we adjusted the values for inflation. *See* Factor Valuation Memorandum.

To calculate the value for domestic brokerage and handling, the Department used brokerage fees available at the Web site of the Republic of the Philippines Tariff Commission, *http://www.tariffcommission.gov.ph/cao01–2001.html*. We calculated the SV for truck freight using Philippine data from two sources: (1) *The Cost of Doing Business in Camarines Sur,* available at the Philippine government's Web site for the province: *http://www.camarinessur.gov.ph*; and (2) a news article from the *Manila Times* titled ''Government Mulls Cut in Export Target.'' We also used this truck rate to value inland boat freight because no other information was available on the record, consistent with *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 12651 (March 15, 2005), and accompanying Issues and Decision Memorandum at Comment 14.

We valued marine insurance using a publicly available price quote from RJG Consultants, a marine insurance provider at *http://www.rjgconsultants.com/insurance.html*. To calculate the value for domestic brokerage and handling, the Department used brokerage fees available at the Web site of the Republic of the Philippines Tariff Commission, *http://www.tariffcommission.gov.ph/cao01-2001.html. See* Factor Valuation Memorandum.

To value factory overhead, selling, general, and administrative expenses (''SG&A''), and profit, we used the audited financial statements for the fiscal year ending December 31, 2007, from the following producers: Maitland-Smith Cebu, Inc.; Casa Cebuana Incorporated; Global Classic Designs, Inc.; Diretso Design Furniture Inc.; and Las Palmas Furniture, Inc., all of which are Philippine producers of comparable merchandise. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (''ML&E'') costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. For further discussion, *see* Factor Valuation Memorandum.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2007, through December 31, 2007:

ADMINISTRATIVE REVIEW

Exporter	Antidumping duty percent margin
Guangdong Yihua Timber Industry Co., Ltd. (a.k.a. Yihua Timber Timber Industry Co., Ltd.) *	124.31
Brother Furniture Manufacture Co., Ltd. *	124.31
COE, Ltd. ∧	124.31
Decca Furniture Limited ∧	124.31
Dongguan Landmark Furniture Products Ltd. ∧	124.31
Dongguan Mingsheng Furniture Co., Ltd. *	124.31
Dongguan Yihaiwei Furniture Limited ∧	124.31
Fujian Lianfu Forestry Co., Ltd. aka Fujian Wonder Pacific , Inc. (Dare Group) *	124.31
Fuzhou Huan Mei Furniture Co., Ltd. (Dare Group) *	124.31
Jiangsu Dare Furniture Co., Ltd. (Dare Group) *	124.31
Hwang Ho International Holdings Limited ∧	124.31

[27] Bon Ten, Dream Rooms, Hamilton, Joyce Art, Orient International, Sande, and Yida are all part of the PRC-wide entity.

ADMINISTRATIVE REVIEW—Continued

Exporter	Antidumping duty percent margin
Meikangchi (Nantong) Furniture Company Ltd. ∧	124.31
Qingdao Shengchang Wooden Co., Ltd. ∧	124.31
Shenzhen Shen Long Hang Industry Co., Ltd. *	124.31
Transworld (Zhangzhou) Furniture Co., Ltd. ∧	124.31
Winny Universal, Ltd., Zhongshan Winny Furniture Ltd., Winny Overseas, Ltd. ∧	124.31
Xingli Arts & Crafts Factory of Yangchun *	124.31
Zhongshan Gainwell Furniture Co., Ltd. *	124.31
PRC-Wide Entity [27]	216.01

NEW SHIPPER REVIEW

Exporter/ producer combination	Antidumping duty percent margin
Golden Well International (HK), Ltd. ∧/Producer: Zhangzhou XYM Furniture Product Co., Ltd.	0.0
Dongguan Sunshine Furniture Co., Ltd. */Dongguan Sunshine Furniture Co., Ltd.	0.0

Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Comments

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review.[28] *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). Further, parties submitting written comments are requested to provide the Department with an additional copy of those comments on diskette. Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR

[28] Because the Department is conducting verification after issuance of the preliminary results of review in this case, the Department will provide interested parties with an updated briefing and hearing schedule once the verification schedule is established.

351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d).

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

Assessment Rates

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

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(1)(C) and (a)(2)(C) of the Act: (1) For all respondents receiving a separate rate, the cash deposit rate will be that established in the final results of these reviews; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 216.01 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

The Department is issuing and publishing these preliminary results of administrative review and new shipper reviews in accordance with sections 751(a) and 777(i)(1) of the Act, and 19 CFR 351.221(b) and 351.214(h).

Dated: January 30, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–2675 Filed 2–6–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN06

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Application to renew scientific research permit.

SUMMARY: Notice is hereby given that NMFS has received one scientific research permit application request relating to Pacific salmon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on March 11, 2009.

ADDRESSES: Written comments on the application should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by e-mail to *resapps.nwr@NOAA.gov*.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR (ph.: 503–231–2005, Fax: 503–230–5441, e-mail: *Garth.Griffin@noaa.gov*). Permit application instructions are available from the address above.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened lower Columbia River (LCR), threatened upper Willamette River (UWR), endangered upper Columbia River (UCR), threatened Snake River (SR) spring/summer (spr/sum), threatened SR fall.

Chum salmon (*O. keta*): threatened Columbia River (CR).

Steelhead (*O. mykiss*): threatened LCR, threatened UWR, threatened middle Columbia River (MCR), threatened SR, endangered UCR, threatened PS.

Coho salmon (*O. kisutch*): threatened LCR, threatened Oregon Coast (OC), threatened Southern Oregon/Northern California coasts (SONCC).

Sockeye salmon (*O. nerka*): endangered SR.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage