

after the date of publication of these final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by the company included in these final results of review for which the reviewed company did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate from the investigation if there is no rate for the intermediate company involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

#### Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(2)(C) of the Act: (1) For the company covered by this review, the cash deposit rate will be the rate listed above; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the most recent final results in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the most recent final results in which that producer participated; and, (4) if neither the exporter nor the producer is a firm covered in this review or in any previous segment of this proceeding, the cash deposit rate will be 7.00 percent, the all-others rate established in the less than fair value investigation. See *Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From the Republic of Korea*, 60 FR 10064 (February 23, 1995).

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations 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 in the subsequent assessment of double antidumping duties.

#### Notification Regarding Administrative Protective Orders

This notice is the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3) of the Department's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 22, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix I—Issues in Decision Memorandum

- Comment 1: Whether to Apply an Alternative Cost-Averaging Methodology
- Legal Framework and Case Precedent
  - Significance of Cost Changes
  - Linkage Between Costs and Sales Prices
  - The Elimination of the Window Period for Price-to-Price Comparisons
  - The Cost Recovery Test
- Comment 2: Application of the Major Input Rule
- Comment 3: The Treatment of Gains Associated With Foreign Currency Swaps
- Comment 4: The Treatment of Interest Income Earned on Retirement and Severance Deposits
- Comment 5: Whether the Department Should Refrain From Zeroing Negative Margins
- Comment 6: Calculation Issues

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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 New Shipper Review

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

**SUMMARY:** On September 9, 2008, the Department of Commerce ("the Department") initiated a new shipper review ("NSR") of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC") covering sales of subject merchandise made by Shanghai Fangjia Industry Co., Ltd. ("Fangjia"). See *Wooden Bedroom Furniture From the People's Republic of China: Initiation of New Shipper Review*, 73 FR 52296 (September 9, 2008) ("*Initiation of NSR*").

The Department preliminarily determines that Fangjia has not made sales at less than normal value ("NV"). If these preliminary results are adopted in our final results of review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR"), of January 1, 2008 through June 30, 2008, for which the importer-specific assessment rates are above *de minimis*.

**DATES: Effective Date:** June 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Lori Apodaca, 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) 482-4551, respectively.

#### Background

The Department published an antidumping duty order on wooden bedroom furniture from the PRC on January 4, 2005. 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) ("the Order"). On July 11, 2008, Fangjia requested that the Department conduct an NSR of its sales of subject merchandise during the January 1, 2008 through June 30, 2008 POR. On September 9, 2008, the Department initiated an NSR of Fangjia.

On September 10, 2008, the Department issued an antidumping duty

questionnaire to Fangjia. Fangjia submitted its section A questionnaire response on October 9, 2008, and submitted its sections C and D questionnaire responses on November 3, 2008. The Department subsequently issued a supplemental questionnaire to Fangjia on March 23, 2009, to which Fangjia responded on April 22, 2009.

On February 27, 2009, the Department extended the deadline for the issuance of the preliminary results of the NSR until June 22, 2009. See *Wooden Bedroom Furniture from the People's Republic of China: Extension of Time for the Preliminary Results of the New Shipper Review*, 74 FR 8906 (February 27, 2009).

#### Period of Review

The POR is January 1, 2008, through June 30, 2008.

#### 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, oriented 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,<sup>1</sup> highboys,<sup>2</sup> lowboys,<sup>3</sup> chests of drawers,<sup>4</sup> chests,<sup>5</sup> door chests,<sup>6</sup> chiffoniers,<sup>7</sup> hutches,<sup>8</sup> and armoires;<sup>9</sup> (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;<sup>10</sup>

<sup>1</sup> 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.

<sup>2</sup> 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).

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

<sup>4</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>5</sup> 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.

<sup>6</sup> 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.

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

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

<sup>9</sup> 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.

<sup>10</sup> 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.

(9) jewelry armoires;<sup>11</sup> (10) cheval mirrors;<sup>12</sup> (11) certain metal parts;<sup>13</sup> (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds;<sup>14</sup> and (14) toy boxes.<sup>15</sup>

<sup>11</sup> 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).

<sup>12</sup> 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).

<sup>13</sup> 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.

<sup>14</sup> 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, 7015 (February 14, 2007).

<sup>15</sup> To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply

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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 Fangjia for this review. In evaluating whether or not a single sale in an NSR is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) The timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm’s-length basis. *See, e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 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 (CIT 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 Fangjia were made on a *bona fide* basis. Specifically, the Department preliminarily 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

with American Society for Testing and Materials (ASTM) standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children’s items such as toys, books, and playthings.

merchandise from the PRC into the United States during the POR; (2) Fangjia and its customer(s) 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) there is no record evidence that indicates that each new shipper sale was not made based on commercial principles; (5) the merchandise was resold at a profit; and (6) the timing of each of the new shipper sales does not indicate the sales were made on a non-*bona fide* basis. *See* the Memorandum titled, “Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People’s Republic of China: *Bona Fide* Nature of the Sale Under Review for Shanghai Fangjia Industry Co., Ltd.” dated June 22, 2009. Therefore, the Department has preliminarily found that Fangjia’s sales of subject merchandise to the United States were \* \* \* for purposes of this NSR.

### Non-Market Economy Country Status

In every antidumping case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy (“NME”) country. *See, e.g., Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (“the Act”), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

### Separate Rates

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 merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject

merchandise under a test arising from the *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 the *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*”). *See also* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005), available at <http://ia.ita.doc.gov/policy/> at p. 6 stating:

[w]hile 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 applies 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 exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation. 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.

Fangjia is a wholly Chinese-owned company and is located in the PRC. Therefore, the Department must analyze whether it can demonstrate the absence of both *de jure* and *de facto* government control over its export activities.

#### A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

Throughout the course of this proceeding, Fangjia has placed a number of documents on the record to demonstrate absence of *de jure* control including: its articles of association, the

“Foreign Trade Law of the People’s Republic of China” and the “The Company Law of the People’s Republic of China.” See Exhibits 2 and 7 of its Section A questionnaire response dated October 9, 2008 (“Section A response”). The evidence provided by Fangjia supports a preliminary finding of *de jure* absence of government 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 the companies; and (3) and there are formal measures by the government decentralizing control of companies.

#### B. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government 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 22587; 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 subject to a degree of government control which would preclude the Department from assigning separate rates.

In its Section A response, Fangjia submitted evidence indicating an absence of *de facto* government control over its export activities. The evidence placed on the record of this review by Fangjia demonstrates an absence of *de facto* government control with respect to its exports of the merchandise under review, in accordance with the criteria identified in *Sparklers and Silicon Carbide*. Specifically, this evidence indicates that: (1) Fangjia sets its own export prices independent of the government and without the approval of a government authority; (2) Fangjia retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) Fangjia’s general manager has

the authority to negotiate and bind the company in an agreement; (4) Fangjia’s management is selected by its owners; and (5) there is no restriction on Fangjia’s use of export revenues. See Section A response at 4–7. Therefore, because Fangjia has demonstrated a lack of *de jure* and *de facto* control, we have preliminarily determined it is eligible for a separate rate.

#### Surrogate Country

When the Department is reviewing imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer’s factors of production (“FOPs”), valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the “Normal Value” section below and in the Memorandum to the File, “New Shipper Review of Wooden Bedroom Furniture from the People’s Republic of China: Surrogate Values for the Preliminary Results,” dated June 22, 2009 (“Factor Valuation Memorandum”).

The Department has determined that India, Indonesia, the Philippines, Colombia, and Thailand are comparable to the PRC in terms of economic development. See the Memorandum titled, “Request for a List of Surrogate Countries for a 2008 New Shipper Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People’s Republic of China,” dated September 15, 2008. It is the Department’s practice to select from among these countries based on the availability and reliability of data. See Department Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004).

The Department is preliminarily selecting the Philippines as the surrogate country for the PRC. The Philippines is at a level of economic development comparable to that of the PRC, it is a significant producer of comparable merchandise, and the Department has reliable, publicly available data from the Philippines that it can use to value the FOPs.

#### Fair Value Comparisons

To determine whether sales of the subject merchandise made by Fangjia to the United States were at prices below NV, the Department compared Fangjia’s export price (“EP”) to NV, as described below.

#### Export Price

In accordance with section 772(a) of the Act, the Department calculated the EP for sales to the United States for Fangjia because the first sale to an unaffiliated party was made before the date of importation and the use of constructed export price (*i.e.*, CEP) was not otherwise warranted. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted from the starting price to unaffiliated purchasers foreign inland freight, and brokerage and handling. For Fangjia, each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, the Department based the deduction of these movement charges on surrogate values. See Factor Valuation Memorandum for details regarding the surrogate values for movement expenses.

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine 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. See also 19 CFR 351.408. 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 773(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 may value the factor using the actual price paid for the input. See *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. See *Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of the 2005–2006 Administrative Review*, 72 FR 42386 (August 2, 2007) (“*Brake Rotors*”), and accompanying Issues and Decision Memorandum at Comment 1.

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 Omnibus Trade and Competitiveness Act of 1988, Conference Report to Accompany H.R. 3, H.R. Rep. 100–576, at 590–91 (1988), reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24. It is the Department’s practice to find a that there is reason to believe or suspect that inputs may be subsidized if the facts developed in the United States or third country countervailing duty findings indicate the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry-specific export subsidies). See *Brake Rotors and China National Machinery Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1338–39 (CIT 2003). The Department has reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. Through other proceedings, the Department has learned that these countries maintain broadly available, non-industry specific export subsidies and, therefore, finds it reasonable to infer that all exports to all markets from these countries may be subsidized. See, e.g., *Brake Rotors* at Comment 1. Accordingly, the Department has disregarded prices from India, Indonesia, South Korea, and Thailand in calculating the Philippine import-based SVs.

#### Factor Valuations

In accordance with section 773(c) of the Act, the Department calculated NV based on FOPs reported by respondents for the POR. To calculate NV, the Department multiplied the reported per-unit factor consumption quantities by publicly available Philippine SVs (except as noted below). In selecting the

SVs, 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 U.S. Court of Appeals for the *Federal Circuit in Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the U.S. Federal Reserve Bank. For a detailed description of all SVs used to value the respondents’ reported FOPs, see Factor Valuation Memorandum.

Fangjia’s producer, Jiangsu Danyang Brilliant Furniture Co., Ltd., (“*Brilliant*”) purchased all reported FOPs from NME sources. Therefore, to calculate SVs, the Department used contemporaneous import data from the World Trade Atlas online, published by the Philippines National Statistics Office. Among the FOPs for which the Department calculated SVs using Philippine Import Statistics are plywood, screws, wood plugs, glue, lacquer, hinges, bolts, and packing materials. For a complete listing of all of the inputs and the valuation for each input, see Factor Valuation Memorandum.

Where the Department could not obtain information contemporaneous with the POR with which to value FOPs, the Department adjusted the SVs using, where appropriate, the Philippine Wholesale Price Index (“*WPI*”) available at the Web site of the Philippines National Statistics Office at <http://www.census.gov.ph/data/sectordata/datawpi.html>. See Factor Valuation Memorandum.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression-based wage rate as reported on Import Administration’s Web site, Import Library, Expected Wages of Selected NME Countries, revised in May 2008, using 2005 data, <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html#table1>. The source of these wage-rate data is the International Labour Organization,

Geneva, Labour Statistics Database, Copyright International Labour Organization, 1998–2007 Yearbook, Selection: years: 2004–2005, Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by the respondents. See Factor Valuation Memorandum.

To value electricity, we used data from *Doing Business in the Philippines*, published by SGV & Co. See Factor Valuation Memorandum.

To calculate the value for domestic brokerage and handling, the Department used brokerage fees available at the website 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 three 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>, (2) *Province of Misamis Oriental: Cost of Doing Business*, available at the Web site <http://www.robpc.org.ph:8080/pdf/costmor.pdf>, and (3) a news article from the *Manila Times* entitled “Government Mulls Cut in Export Target.” 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

The Department preliminarily determines that the following weighted-average dumping margin exists for the period January 1, 2008, through June 30, 2008:

WOODEN BEDROOM FURNITURE FROM  
THE PRC

Exporter/producer	Weighted-average margin (percent)
Shanghai Fangjia Industry Co., Ltd./Jiangsu Danyang Brilliant Furniture Co., Ltd .....	0.00

**Disclosure and Public Comment**

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). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttals to written comments may be filed no later than five days after the written comments are filed. *See* 19 CFR 351.309(d). Further, parties submitting written comments and rebuttal 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 351.310(c). If requested, a hearing normally will be held two days after the scheduled date for submission of rebuttal comments. *See* 19 CFR 351.310(d).

The Department intends to issue the final results of this NSR, which will include the results of its analysis of any issues raised in written comments, within 90 days of the date on which these preliminary results are issued, in accordance with 19 CFR 351.214(i)(1), unless the time limit is extended. *See* 19 CFR 351.214(i)(2).

**Assessment Rates**

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. The

Department will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

**Cash Deposit Requirements**

On August 17, 2006, the Pension Protection Act of 2006 ("H.R. 4") was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct CBP to collect a bond or other security in lieu of a cash deposit in NSRs. Therefore, the posting of a bond under section 751(a)(1)(B)(iii) of the Act in lieu of a cash deposit is not available in this case.

The following cash deposit requirements will be effective upon publication of the final results of this NSR for shipments of subject merchandise from Fangjia entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced by Brilliant and exported by Fangjia, the cash deposit rate will be that established in the final results of this review; (2) for subject merchandise exported by Fangjia but not produced by Fangjia, the cash deposit rate will continue to be the PRC-wide rate of 216.01 percent; (3) for subject merchandise exported by Fangjia and produced by Fangjia, the cash deposit rate will continue to be the PRC-wide rate of 216.01 percent; (4) for subject merchandise produced by Fangjia, and exported by any party but itself, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Interested Parties**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. 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 this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: June 22, 2009.

**Ronald K Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-15495 Filed 6-29-09; 8:45 am]

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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-588-850]

**Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan: Rescission of Antidumping Duty Administrative Review**

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

**SUMMARY:** On July 30, 2008, the U.S. Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe from Japan. The review covers four manufacturers/exporters: JFE Steel Corporation; Nippon Steel Corporation; NKK Tubes; and Sumitomo Metal Industries, Ltd. (SMI). The period of review (POR) is June 1, 2007, through May 31, 2008. Following the receipt of a certification of no shipments from all four respondents, we notified the domestic interested party of the Department's intent to rescind this review and provided an opportunity to comment on the rescission. We received no comments. Therefore, we are rescinding this administrative review.

**DATES:** *Effective Date:* Insert date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Alexander Montoro, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0238.

**SUPPLEMENTARY INFORMATION:****Background**

On June 30, 2007, United States Steel Corporation (U.S. Steel), a domestic producer of the subject merchandise, made a timely request that the Department conduct an administrative review of JFE Steel Corporation, Nippon Steel Corporation, NKK Tubes, and SMI. On July 30, 2008, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a