

## DEPARTMENT OF COMMERCE

## International Trade Administration

A-570-941

**Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order**

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

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on certain kitchen appliance shelving and racks from the People's Republic of China ("PRC"). On September 2, 2009, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. *See Certain Kitchen Appliance Shelving and Racks from China* (Investigation No. 731-TA-1154 (Final), USITC Publication 4098, (August 2009)).

**EFFECTIVE DATE:** September 14, 2009.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock or Kathleen Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-1394 or (202) 482-7906, respectively.

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

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended, ("Act"), the Department published the final determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain kitchen appliance shelving and racks from the People's Republic of China ("PRC"). *See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) ("Final Determination").

**Scope of the Order**

The scope of this order consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens ("certain kitchen appliance shelving and racks" or "the merchandise under order"). Certain

kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- shelving and racks with dimensions ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or
- subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The merchandise under order is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under order may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this order is shelving in which the support surface is glass.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, and 8516.90.8000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

**Amendment to the Final Determination**

On July 27, 2009, New King Shan (Zhu Hai) Co., Ltd. ("New King Shan") filed timely allegations that the Department made various ministerial errors in the *Final Determination* and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors in the calculation of its margin. Specifically, New King Shan alleged that (1) the Department failed to adjust for different currencies in calculating its indirect selling expenses ("ISEs"); (2) the Department miscalculated the ISE ratios; and (3) the

Department's decision to value steel wire rod using the JPC data for 6mm and 8mm steel wire rod was based on a failure to examine all of the data on the record. On August 3, 2009, Petitioners submitted comments in rebuttal to New King Shan's ministerial error comments. No other parties in this proceeding submitted comments on the Department's final margin calculations.

A ministerial error is defined as an error "in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the {Department} considers ministerial." *See* section 735(e) of the Act; *see also* 19 CFR 351.224(f).

After analyzing all interested party comments and rebuttals, we have determined, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), that we made a ministerial error in our calculations for the *Final Determination* with respect to New King Shan. For a detailed discussion of this ministerial error, as well as the Department's analysis of this error and other allegations raised, *see* Memorandum to James C. Doyle, Director, Office 9, through Catherine Bertrand, Program Manager, from Kathleen Marksberry, Case Analyst: Antidumping Duty Investigation of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Analysis of Ministerial Error Allegations, dated concurrent with this **Federal Register** notice.

Additionally, in the *Final Determination*, we determined that several companies qualified for a separate rate. *See Final Determination*, 74 FR 36660. Because the only other mandatory respondent, Guangdong Wireking Housewares & Hardwares Co., Ltd. ("Wireking"), received a margin based on total adverse facts available ("AFA") in the *Final Determination*, the separate rate for these companies was New King Shan's calculated rate. *See id.*; *see also* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations: Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Issues and Decision Memorandum for the *Final Determination*, (July 20, 2009) at Comment 17A ("Issues and Decision Memo"). Therefore, because the margin for New King Shan has changed since the *Final Determination* the separate rate has changed as well, it is now 43.09 percent. The revised dumping margins are listed in the chart below. *See*

Memorandum to the File through Catherine Bertrand, Program Manager, from Kathleen Marksberry, Analyst; Investigation of Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Analysis of New King Shan (Zhu Hai) Co., Ltd., dated concurrent with this **Federal Register** notice.

### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation on all entries of subject merchandise from the PRC. We will also instruct CBP to require cash deposits equal to the estimated amount by which the normal value exceeds the U.S. price as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

Additionally, in the *Final Determination*, the Department noted that it has continued to find in its *CVD Final* that the products under investigation, exported and produced by Wireking, benefitted from an export subsidy. See *Final Determination*, 74 FR at 36660–61; *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) ("*CVD Final*"). The following subsidies were determined in the *CVD Final*: Income Tax reduction for Export Oriented FIEs: countervailable subsidy of 0.94 percent; and Local Income Tax Reduction for "Productive" FIEs: countervailable subsidy of 0.23 percent. In the *CVD Final*, Wireking's rate was assigned to the All–Others rate as it was the only rate that was not zero, de minimis, or based on total facts available. Accordingly, as the countervailing duty rate for New King Shan, Marmon Retail Services Asia, Hangzhou Dunli Import & Export Co., Ltd., Jiangsu Weixi Group Co., is the All–Others rate, which includes two countervailable export subsidies, we will instruct CBP to require an antidumping duty cash deposit or the posting of a bond for each entry equal to the weighted–average margin indicated above for these companies adjusted for the countervailing duties imposed to offset export subsidies determined in the *CVD Final*. The adjusted cash deposit rate for New King Shan is 41.92 percent and, as the antidumping duty cash deposit rate assigned to the separate rate companies is New King Shan's rate, the adjusted cash deposit rate for Marmon Retail Services Asia, Hangzhou Dunli Import &

Export Co., Ltd., Jiangsu Weixi Group Co. also is 41.92 percent.

### ANTIDUMPING DUTY ORDER

#### Antidumping Duty Order

On September 2, 2009, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination in this investigation. In its determination, the ITC found two domestic like products: (1) refrigeration shelving; and (2) oven racks, covering the scope of subject merchandise subject to the investigation. The ITC determined that imports of refrigeration shelving from the PRC caused material injury to a domestic industry, and oven racks from the PRC threaten material injury to a domestic industry. Since the ITC made different affirmative injury determinations for both domestic like products, the Department must instruct U.S. Customs and Border Protection to assess antidumping duties on entries of oven racks separately from refrigerator shelves. When we make a determination, either for one or more than one class or kind of merchandise, our determination that there is dumping or subsidization is specific to each class or kind of merchandise. In this case, we calculated final determination dumping margins for a single class or kind of merchandise.

#### Refrigeration Shelving

Because the ITC determined that imports of refrigeration shelving from the PRC are materially injuring a U.S. industry, all unliquidated entries of such refrigeration shelving from the PRC, entered or withdrawn from warehouse, are also subject to the assessment of antidumping duties.

In accordance with section 736 of the Act, the Department will also direct CBP to assess antidumping duties on all unliquidated entries of refrigeration shelving from the PRC entered, or withdrawn from warehouse, for consumption on or after March 5, 2009, the date on which the Department published its preliminary determination notice in the **Federal Register** (74 FR 9591).

#### Oven Racks

According to section 736(b)(2) of the Act, duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination if that determination is based on the threat of material injury and is not accompanied by a finding that injury would have resulted without the imposition of suspension of liquidation of entries since the Department's preliminary

determination. In addition, section 736(b)(2) of the Act requires CBP to refund any cash deposits or bonds of estimated antidumping duties posted since the preliminary antidumping determination if the ITC's final determination is threat–based.

Because the ITC's final determination for oven racks is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 74 FR 9591 (March 5, 2009) ("*Preliminary Determination*"), section 736(b)(2) of the Act is applicable. Therefore, the Department will direct CBP to assess, upon further advice, antidumping duties on all unliquidated entries of oven racks from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination of threat of material injury in the **Federal Register**. See 1–Hydroxyethylidene–1, 1–Diphosphonic Acid from India and the People's Republic of China: *Antidumping Duty Orders*, 74 FR 19197, 19198 (April 28, 2009). In addition, section 736(b)(2) of the Act requires CBP to refund any cash deposits or bonds of estimated antidumping duties posted since the preliminary antidumping determination and prior to the ITC's notice of final determination.

Therefore, the Department will direct CBP to terminate the suspension of liquidation for entries of oven racks from the PRC entered, or withdrawn from warehouse, for consumption before the date on which the ITC published its notice of final determination of threat of material injury in the **Federal Register**, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736 of the Act, the Department will also direct CBP to assess antidumping duties on all unliquidated entries of oven racks from the PRC entered, or withdrawn from warehouse, for consumption on or after the date on which the ITC published its notice of final determination of threat of material injury in the **Federal Register**.

Effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise (e.g., both refrigeration shelving and oven racks), a cash deposit

equal to the estimated weighted-average antidumping duty margins as listed below. See section 735(c)(3) of the Act.

The “PRC-wide” rate applies to all exporters of subject merchandise not

specifically listed. The weighted-average dumping margins are as follows:

| Exporter  | Producer  | WA Margin |
|---|---|-----------|
| Guangdong Wireking Housewares & Hardware Co., Ltd. (a/k/a Foshan Shunde Wireking Housewares & Hardware Co., Ltd.) ..... | Guangdong Wireking Housewares & Hardware Co., Ltd.                  | 95.99     |
| New King Shan (Zhu Hai) Co., Ltd. ....  | New King Shan (Zhu Hai) Co., Ltd.                                   | 43.09     |
| Marmon Retail Services Asia .....   | Leader Metal Industry Co., Ltd. (a/k/a Marmon Retail Services Asia) | 43.09     |
| Hangzhou Dunli Import & Export Co., Ltd. ....   | Hangzhou Dunli Industry Co., Ltd.                                   | 43.09     |
| Jiangsu Weixi Group Co. ....  | Jiangsu Weixi Group Co.   | 43.09     |
| PRC-wide Entity (including Asber Enterprise Co., Ltd. (China)) .....  |   | 95.99     |

This notice constitutes the antidumping duty order with respect to certain kitchen appliance shelving and racks from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department’s Central Records Unit, Room 1117 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: September 8, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before October 5, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

*Docket Number: 09–048.* Applicant: North Dakota State University, 1301 12th Ave. North, Fargo, ND 58102. Instrument: Electron Microscope.

Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to inspect semiconductor devices and micro sensors; study nanoparticles, nanotubes, polymers and composites; and to create micro to nanoscale channels for fluidics research. Justification for Duty-Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: August 18, 2009.

*Docket Number: 09–049.* Applicant: Washington State University, 220 French Administration Building, P.O. Box 641020, Pullman, WA 99164. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to inspect semiconductor devices and micro sensors; study nanoparticles, nanotubes, polymers and composites; and to create micro to nanoscale channels for fluidics research. Justification for Duty-Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: August 18, 2009.

*Docket Number: 09–050.* Applicant: Stanford University, 450 Serra Mall, Stanford, CA 94305. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used for “spectrum imaging” of elemental distributions at the sub-nano level, to gather three-dimensional structural information of nano-sized crystals as well as to measure electrostatic and magnetic fields in a variety of samples. Justification for Duty-Free Entry: No instruments of same general category are manufactured in the United States. Application accepted by Commissioner of Customs: August 18, 2009.

Dated: September 8, 2009.

**Christopher Cassel,**

*Director, IA Subsidies Enforcement Office.*

[FR Doc. E9–22049 Filed 9–11–09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–570–942]

#### Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Countervailing Duty Order

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

**SUMMARY:** On September 2, 2009, the U.S. International Trade Commission (“ITC”) notified the Department of Commerce (“Department”) of its affirmative determinations of material injury to the U.S. refrigeration shelving industry and threat of material injury to the U.S. oven racks industry. *See Certain Kitchen Appliance Shelving and Racks from China*, USITC Pub. 4098, Investigation 701–TA–458 and 731–TA–1154 (Final) (August 2009). Based on affirmative final determinations by the Department and the ITC, the Department is issuing this countervailing duty order on certain kitchen appliance shelving and racks from the People’s Republic of China (“PRC”).

**DATES:** *Effective Date:* September 14, 2009.

**FOR FURTHER INFORMATION CONTACT:** Yasmin Nair or Scott Holland, 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) 482–3813 and (202) 482–1279, respectively.

#### Background

On July 27, 2009, the Department published its final determination in the countervailing duty investigation of certain kitchen appliance shelving and racks from the PRC. *See Certain Kitchen Shelving and Racks from the People’s Republic of China: Final Affirmative*