

- Wan Bao Chen Group Hong Kong Co., Ltd.<sup>80</sup>
- World Design International Co., Ltd.
- Xilinmen Furniture Co., Ltd.
- Xingli Arts & Crafts Factory of Yangchun<sup>81</sup>
- Yuexing Group Co., Ltd.
- Zhejiang Shaoxing Huaweimei Furniture Co., Ltd.
- Zhong Shan Heng Fu Furniture Co.
- Zhongshan Fengheng Furniture Co., Ltd.
- Zhongshan Yiming Furniture Co., Ltd.

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(1) and (a)(2)(C) of the Act: (1) For all respondents receiving a separate rate, the cash deposit rate will be that rate established in the final results of this review; (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 established in the final results of this review; 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 the non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a 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 in accordance with section 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: October 3, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties

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

**ACTION:** Notice of Policy Concerning Assessment of Antidumping Duties.

**SUMMARY:** After consideration of public comments, the Department of Commerce ("the Department") is hereby adopting a refinement in its practice with respect to the rate at which it instructs U.S. Customs and Border Protection ("CBP") to liquidate certain non-reviewed entries. Specifically, the Department is refining its practice to instruct CBP to liquidate such entries at the non-market economy ("NME")-wide rate.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock, Special Assistant, China/NME Unit, Office of Antidumping and Countervailing Operations, Import Administration, U.S. Department of Commerce, at 202-482-1394.

#### SUPPLEMENTARY INFORMATION:

#### Background

On June 10, 2011, the Department proposed a refinement to its practice regarding the rate at which it instructs CBP to liquidate certain entries from non-reviewed exporters. See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 34046 (June 10, 2011) ("Proposed Policy"). As explained in the *Proposed Policy*, in administrative reviews of antidumping duty ("AD") orders covering

merchandise produced in NME countries, importers will sometimes declare in their entry documentation a cash deposit rate that is associated with a company which has a company-specific rate, as opposed to the NME-wide rate, but the sales underlying the particular entry are not reported to or reviewed by the Department in the course of the administrative review covering that company. As a result, there may be suspended entries to which the Department's final review results do not apply. Previously, in such situations, it was the Department's practice to instruct CBP to assess AD duties at the cash deposit rate in effect at the time of entry for such entries of merchandise.

In response to the *Proposed Policy*, the Department received comments from thirteen parties. After careful consideration of these comments, the Department has determined to implement the proposed refinement in practice. The Department will instruct CBP to apply the NME-wide rate to entries suspended at a reviewed exporter's rate, but which are not reported to or reviewed by the Department during the administrative review process. For further detail on what entries this policy affects, see the "Applicability" section below.

#### Final Refinement in Practice

In AD proceedings, the Department establishes a cash deposit rate for each company subject to the investigation or review. In NME cases, if an exporter does not receive a separate rate, the NME-wide rate applies as the cash deposit rate at the time of entry to entries of merchandise it exports. Previously, for merchandise entered at the separate rate applicable to a reviewed exporter, but which were not reported to the Department in the review and thus not covered by the final results of the review, the Department instructed CBP to liquidate such entries at the cash deposit rate in effect at the time of entry.

With the publication of this notice, the Department implements a policy refinement regarding the rate at which it will instruct CBP to liquidate such non-reviewed entries. For entries that are not reported in the reviewed company's U.S. sales databases submitted to the Department during an administrative review, or otherwise determined not covered by the review (i.e., the reviewed exporter claims no shipments), the Department will instruct CBP to liquidate such entries at the NME-wide rate as opposed to the company-specific rate declared by the importer at the time of entry.

<sup>80</sup> Wan Bao Chen Group Hong Kong Co., Ltd. lost its separate rate on August 18, 2010 (see 4th Review Final Results). The separate rate applies only to entries from January 1, 2010 through August 17, 2010. All other entries of subject merchandise from Wan Bao Chen Group Hong Kong Co., Ltd. during 2010 are subject to the PRC-wide rate. Assessment instructions for 2010 entries will not be issued until completion of the instant review.

<sup>81</sup> Xingli Arts & Crafts Factory of Yangchun lost its separate rate on August 18, 2010 (see 4th Review Final Results). The separate rate applies only to entries from January 1, 2010 through August 17, 2010. All other entries of subject merchandise from Xingli Arts & Crafts Factory of Yangchun during 2010 are subject to the PRC-wide rate. Assessment instructions for 2010 entries will not be issued until completion of the instant review.

This practice in NME proceedings will be consistent with the application of the same liquidation practice in market economy ("ME") proceedings. The goal of this practice in ME proceedings, the accurate assignment of duties based on information obtained in a review, is not unique to ME proceedings but is necessary in all antidumping proceedings. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). Interested parties have the right to request an administrative review of their entries, or to participate in an administrative review, to ensure that the entries are liquidated at the rate the interested party believes is proper. See 19 CFR 351.103, *et seq.*

### Applicability

The Department intends to apply the policy to all non-reviewed entries from exporters which are selected for individual examination, whether or not the Department is aware of the involvement of a third party. Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the NME-wide rate. See *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative review*, 75 FR 56989 (September 17, 2010). This refinement will not apply to entries suspended at the cash deposit rate for exporters for which a review is not initiated. Nor does this refinement apply to entries suspended at the rate of exporters under review but which are not selected for individual examination (*i.e.*, the separate rate companies), except where the Department has determined that the exporter had no shipments covered by the review.

### Definition of Exporter

In response to the *Proposed Policy*, certain parties argued that the Department should clarify the term "exporter" for this refinement in practice to provide notice to the importers regarding which entity the importer should consider to be the exporter in a multi-leg transaction for the purpose of claiming the correct cash deposit rate and having the entry liquidated in accordance with that expectation. Because of the variances in commercial practice, it is the Department's established practice to evaluate an export transaction on a case-by-case basis within the context of an administrative review or investigation.

Within the framework of an administrative review, the Department is able to examine additional documentation to decide which entity was the exporter for purposes of making NME AD determinations.

Because the importer is the party most likely to have the best information and appropriate documentation regarding the transactions relevant to the entries, the Department considers it to be the importer's responsibility to ensure that the documentation of the sales transaction supports the cash deposit rate the importer claims for its entries. In order to facilitate the proper identification of the exporter, the Department will coordinate with CBP to provide guidance to importers. Likewise, as explained above, any interested party can file a notice of appearance with the Department to ensure that its entries are liquidated in accordance with its expectations.

### Implementation

As stated in the *Proposed Policy*, the Department intends to apply this policy to all entries for which the anniversary month for requesting an administrative review is the month after the date of publication of this final notice. See *Proposed Policy*. This implementation is consistent with our ME Reseller Practice and with the Federal Circuit's opinion in *Parkdale Int'l v. United States*, 475 F.3d 1375, 1378–79 (CAFC 2007) ("the primary effect of the policy is prospective, *i.e.*, it applies to liquidations post-dating its adoption, [accordingly] we conclude that its effect cannot properly be considered impermissibly retroactive"). Therefore, this policy refinement will apply to all relevant entries, regardless of when entered, for which the anniversary month for requesting a review of the order is November, 2011 or later.

Dated: October 17, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–928]

### Uncovered Innerspring Units From the People's Republic of China: Extension of Final Results of Antidumping Duty New Shipper Review

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

**SUMMARY:** The Department of Commerce ("Department") is extending the time limit for the final results of the first new shipper review of uncovered innerspring units ("innersprings") from the People's Republic of China ("PRC"). The review covers the period of review ("POR") of February 1, 2010, through July 31, 2010.

**DATES:** *Effective Date:* October 24, 2011.

**FOR FURTHER INFORMATION CONTACT:** Paul Walker, 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) 482–0413.

### Background

On August 4, 2011, the Department published in the **Federal Register** the Preliminary Results of the new shipper review of innersprings from the PRC.<sup>1</sup> The respondent in this new shipper review is Foshan Nanhai Jiujiang Quan Li Spring Hardware Factory ("Quan Li"). The final results are currently due no later than October 24, 2011.

### Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the "Act"), and section 351.214(i)(1) of the Department's regulations, require the Department to issue the final results in a new shipper review 90 days after the date on which the preliminary results are issued. The Department may, however, extend the deadline for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated.<sup>2</sup>

### Extension of Time Limit for Final Results of Review

We determine that this case is extraordinarily complicated because the Department requires additional time to analyze interested parties' case and rebuttal briefs concerning the *bona fide* nature of the sale under review. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act, and section 351.214(i)(2) of the Department's regulations, we are extending the time for the completion of the final results of this review until November 22, 2011.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

<sup>1</sup> See *Uncovered Innerspring Units From the People's Republic of China: Preliminary Intent To Rescind New Shipper Review*, 76 FR 47151 (August 4, 2011) ("Preliminary Results").

<sup>2</sup> See section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).