

reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act and 19 CFR 351.221(b)(4).

Dated: May 29, 2008.

**Stephen J. Claeys,**

*Deputy 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 January 1, 2007 July 31, 2007 Semi-Annual New Shipper Reviews

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

**SUMMARY:** On August 31, 2007, the Department of Commerce ("the Department") initiated semi-annual new shipper reviews ("NSRs") of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC") covering sales of subject merchandise made by Dongguan Mu Si Furniture Co., Ltd. ("Mu Si") and Dongguan Bon Ten Furniture Co., Ltd. ("Bon Ten"). See *Wooden Bedroom Furniture From the People's Republic of China: Initiation of New Shipper Reviews*, 72 FR 52083 (September 12, 2007) ("Initiation of NSRs").

The Department preliminarily determines that Mu Si has made sales at less than normal value ("NV"), and Bon Ten has not made sales in the United States at less than 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") for which the importer-specific assessment rates are above *de minimis*.

**EFFECTIVE DATE:** June 6, 2008.

**FOR FURTHER INFORMATION CONTACT:** Paul Stolz or Hua Lu, 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.

#### SUPPLEMENTARY INFORMATION:

##### 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 27, 2007, Mu Si and Bon Ten requested that the Department conduct NSRs of sales of their subject merchandise during the period of review POR January 1, 2007 through June 30, 2007. On July 31, 2007, Dongguan Sunshine Furniture Co., Ltd. ("Sunshine") requested that the Department conduct an NSR covering its sales of subject merchandise. On August 31, 2007, the Department initiated semi-annual NSRs of Mu Si and Bon Ten. See *Initiation of NSRs*. The Department did not initiate a review of Sunshine's sales because CBP import data did not demonstrate that Sunshine sold subject merchandise to the United States during the POR.

On October 5, 2007, the Department issued antidumping duty questionnaires to Mu Si and Bon Ten. Mu Si and Bon Ten submitted their section A questionnaire responses on November 5, 2007, and submitted their sections C and D questionnaire responses on November 20, 2007. The Department subsequently issued supplemental questionnaires to Bon Ten and to Mu Si on March 21, 2008 and April 2, 2008, respectively, to which they responded on April 14, 2008 and April 25, 2008, respectively.

On February 28, 2008, the Department extended the deadline for the issuance of the preliminary results of these NSRs until May 27, 2008. See *Wooden Bedroom Furniture from the People's Republic of China: Extension of Time Limit for the Preliminary Results of New Shipper Reviews*, 73 FR 11395 (March 3, 2008).

##### Period of Review

The POR is January 1, 2007, through July 31, 2007.<sup>1</sup>

<sup>1</sup> In the Initiation of NSRs the Department stated, "As discussed above, under 19 CFR 351.214 (f)(2)(ii), when the sale of the subject merchandise occurs within the POR, but the entry occurs after the normal POR, the POR may be extended. Therefore, the POR for the new shipper reviews of Bon Ten and Mu Si is January 1 through July 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, 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>2</sup> highboys,<sup>3</sup> lowboys,<sup>4</sup> chests of drawers,<sup>5</sup> chests,<sup>6</sup> door chests,<sup>7</sup> chiffoniers,<sup>8</sup>

<sup>2</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>3</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>4</sup> A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

<sup>5</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>6</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>7</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>8</sup> A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

hutches,<sup>9</sup> and armoires;<sup>10</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>11</sup> (9) jewelry armoires;<sup>12</sup> (10) cheval

mirrors;<sup>13</sup> (11) certain metal parts;<sup>14</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; and (13) upholstered beds.<sup>15</sup>

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.

<sup>13</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>14</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>15</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>9</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>10</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>11</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.

<sup>12</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).

## Bona Fide Analysis

Consistent with the Department’s practice, the Department investigated the *bona fide* nature of the sales made by Mu Si and Bon Ten for these reviews. 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 Mu Si and Bon Ten were made on a *bona fide* basis. 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) 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 regarding, “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 Dongguan Mu Si Furniture Co., Ltd.”* dated May 27, 2008; and the Memorandum regarding, “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 Dongguan Bon Ten Furniture Co., Ltd.” dated May 27, 2008.

Therefore, the Department has preliminarily found that Mu Si's and Bon Ten's sales of subject merchandise to the United States were *bona fide* for purposes of these NSRs.

#### 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 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/bulletin05-1.pdf> 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.")

Mu Si and Bon Ten are wholly Chinese-owned companies and are located in the PRC. Therefore, the Department must analyze whether they can demonstrate the absence of both *de jure* and *de facto* government control over their 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, Mu Si and Bon Ten have placed a number of documents on the record to demonstrate absence of *de jure* control including: business licenses, financial statements, and narrative information regarding government laws and regulations on corporate ownership, and the companies' operations and selection of management. For example, Mu Si and Bon Ten have placed on the record their 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* Exhibit 1 of their respective Section A questionnaire responses dated November 5, 2007. The evidence provided by Mu Si and Bon

Ten 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 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 subject to a degree of government control which would preclude the Department from assigning separate rates.

The Department conducted a separate-rates analysis for both Mu Si and Bon Ten. In their questionnaire responses, Mu Si and Bon Ten submitted evidence indicating an absence of *de facto* government control over their export activities. The evidence placed on the record of this review by Mu Si and Bon Ten demonstrates an absence of *de facto* government control with respect to each of the exporters' exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Specifically, this evidence indicates that:

(1) Mu Si and Bon Ten set their own export prices independent of the government and without the approval of a government authority; (2) Mu Si and Bon Ten retain the proceeds from their sales and make independent decisions regarding the disposition of profits or financing of losses; (3) Mu Si and Bon Ten each has an executive director/

general manager who has the authority to negotiate and bind the company in an agreement; (4) the executive director/general manager, the vice-manager, and the department managers are selected by the respective shareholders of each company; and (5) there is no restriction on Mu Si's or Bon Ten's use of export revenues. Therefore, because Mu Si and Bon Ten have demonstrated a lack of *de jure* and *de facto* control, we have preliminarily determined they are 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 May 27, 2008 ("Factor Valuation Memorandum").

The Department has determined that India, Sri Lanka, Egypt, Indonesia, and the Philippines, are comparable to the PRC in terms of economic development. See the Memorandum regarding, "New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Request for a List of Surrogate Countries," dated October 3, 2007. 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).

In the final results of the first administrative review of the Order, the most recently completed segment of this proceeding, the Department used India as the surrogate country for the PRC. However, in the ongoing second administrative review, the Department preliminarily selected the Philippines as the surrogate country because, in addition to the Philippines meeting the economic comparability and significant

producer factors, the financial data from the Philippines better reflected the overall experience of producers of comparable merchandise in a surrogate country. Unlike the ongoing administrative review, for these new shipper reviews, there is no information on the record which would enable us to consider the Philippines as a surrogate country. Therefore, the Department is preliminarily selecting India as the surrogate country for the PRC. India 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 India that it can use to value the FOPs.

### Fair Value Comparisons

To determine whether sales of the subject merchandise made by Mu Si and Bon Ten to the United States were at prices below NV, the Department compared each company'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 Mu Si and Bon Ten because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP 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 Mu Si and Bon Ten, 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. 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 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 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 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 Indonesia, South Korea, and Thailand in calculating the Indian 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 Indian 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 Indian 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). For a detailed description of all SVs used to value the respondents' reported FOPs, see Factor Valuation Memorandum.

During the POR, Mu Si and Bon Ten purchased all or a portion of certain inputs from a market economy supplier and paid for these inputs in a market economy currency. The Department has instituted a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006) (“Market Economy Inputs”). In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted-average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise

valid and there is no reason to disregard the prices, the Department will weight average the weighted-average market economy purchase price with an appropriate SV according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. Where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. Furthermore, when a firm has made market economy input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33-percent threshold.

Consistent with the aforementioned methodology, the Department valued Mu Si's and Bon Ten's inputs using the market economy prices paid for the inputs where the total volume of the input purchased from all market economy sources during the POR exceeded 33 percent of the total volume of the input purchased from all sources during that period. Alternatively, when the volume of Mu Si's and Bon Ten's purchases of an input from market economy suppliers during the POR was below 33 percent of the company's total volume of purchases of the input during the POR, the Department weight averaged the weighted-average market economy purchase price with an appropriate SV according to their respective shares of the total volume of purchases, as appropriate. Where appropriate, the Department increased the market economy prices of inputs by freight and brokerage and handling expenses. See Factor Valuation Memorandum; see also Memorandum to the File, “Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Mu Si,” dated May 27, 2008 and Memorandum to the File “Company Analysis Memorandum in the Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Bon Ten,” dated May 27, 2008 (for a detailed description of all actual values used for market-economy inputs.).

In order to calculate SVs for the reported FOPs purchased from NME sources, the Department used

contemporaneous import data from the World Trade Atlas online, published by the Directorate General of Commercial Intelligence and Statistics, Ministry of Commerce of India. Among the FOPs for which the Department calculated SVs using Indian Import Statistics are plywood, woodscrews, dowels, glue, paint, drawerslides, abrasive paper, and packing materials. For a complete listing of all the inputs and the valuation for each mandatory respondent. 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 Indian Wholesale Price Index (“WPI”) available at the website of the Office of the Economic Adviser, Ministry of Commerce and Industry, Government of India, <http://eaindustry.nic.in/>. 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 website, 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, the Department used data from the International Energy Agency *Key World Energy Statistics* (2003 edition). See Factor Valuation Memorandum. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation.

To calculate the value for domestic brokerage and handling, the Department used information from the public version of two questionnaire responses placed on the record of two separate antidumping proceedings. The first source was December 2003–November 2004 data contained in the public version of Essar Steel's February 28, 2005 questionnaire response submitted in the antidumping duty administrative review of hot-rolled carbon steel flat products from India. See *Certain Hot-*

*Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006) (unchanged in the final results, *Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 40694 (July 18, 2006)). This value was averaged with the February 2004–January 2005 data contained in the public version of Agro Dutch Industries Limited's ("Agro Dutch") May 24, 2005 questionnaire response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India. See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005). The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions are ranged data. The Department derived an average per-unit amount from each source and then adjusted each average rate for inflation using the WPI. The Department then averaged the two per-unit amounts to derive an overall average rate for the POR. See Factor Valuation Memorandum.

The Department used Indian transport information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck and rail freight to be from [www.infreight.com](http://www.infreight.com). This source provides daily rates from six major points of origin to five destinations in India during the POR. The Department obtained a price quote on the first day of each month of the POR from each point of origin to each destination and averaged the data accordingly. See Factor Valuation Memorandum.

To value factory overhead, selling, general, and administrative expenses ("SG&A"), and profit, the Department used the audited financial statements for the fiscal year ending March 31, 2007, from twelve Indian producers of comparable merchandise. From this information, the Department was 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 Reviews

The Department preliminarily determines that the following weighted-average dumping margins exist for the

period January 1, 2007, through July 31, 2007:

#### WOODEN BEDROOM FURNITURE FROM THE PRC

Producer/Exporter	Weighted-Average Margin (Percent)
Dongguan Bon Ten Furniture Co., Ltd./Dongguan Bon Ten Furniture Co., Ltd. ....	0.00
Dongguan Mu Si Furniture Co., Ltd./Dongguan Mu Si Furniture Co., Ltd. ....	103.55

#### 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 seven days after the scheduled date for submission of rebuttal comments. See 19 CFR 351.310(d).

The Department will issue the final results of these NSRs, 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)(1).

#### 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 reviews. If these preliminary results are adopted in our final results of reviews, 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 these reviews if any importer-specific assessment rate calculated in the final results of these reviews 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)(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 these NSRs for shipments of subject merchandise from the Mu Si and Bon Ten 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) Subject merchandise produced and exported by Mu Si or produced and exported by Bon Ten, the cash deposit rate will be that established in the final results of these reviews; (2) subject merchandise exported by Mu Si but not produced by MuSi and subject merchandise exported by Bon Ten but not produced by Bon Ten, the cash deposit rate will continue to be the PRC-wide rate of 216.01 percent; (3) for subject merchandise produced by Mu Si or Bon Ten, and exported by any party but themselves, 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)(1),

751(a)(2)(B), and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: May 27, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-12762 Filed 6-5-08; 8:45 am]

BILLING CODE 3510-DR-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-423-808]

#### Stainless Steel Plate in Coils From Belgium: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on stainless steel plate in coils (SSPC) from Belgium. For the period May 1, 2006, through April 30, 2007, we have preliminarily determined that U.S. sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the constructed export price (CEP) and NV. See "Preliminary Results of Review" section of this notice. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** June 6, 2008.

**FOR FURTHER INFORMATION CONTACT:** Cindy Robinson or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-3797 or (202) 482-1167, respectively.

#### Background

On May 1, 2007, the Department issued a notice of opportunity to request an administrative review of this order for the period of review (POR) May 1, 2006, through April 30, 2007. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 23796 (May 1, 2007). On May 31, 2007, the Department received timely requests for an administrative review of this order from the Petitioners, Allegheny Ludlum Corporation, North American Stainless,

United Auto Workers Local 3303, Zanesville Armco Independent Organization, and the United Steelworkers of America, AFL-CIO/CLC (collectively, Petitioners), and the respondent, Uginé & ALZ Belgium (U&A Belgium), respectively. On June 29, 2007, we published a notice initiating an administrative review of the antidumping duty order on SSPC from Belgium covering one respondent, U&A Belgium. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Review*, 72 FR 35690 (June 29, 2007).

On May 11, 2007, the Department received a request from U&A Belgium for a scope determination that the antidumping and countervailing duty orders on SSPC from Belgium exclude stainless steel products with an actual thickness less than 4.75mm, regardless of nominal thickness. The Department initiated a formal scope inquiry of the SSPC orders<sup>1</sup> on July 23, 2007. On November 16, 2007, and on January 15, 2008, the Department extended the deadline to issue a final scope ruling under 19 CFR 351.302(b). See *Memoranda To All Interested Parties RE: Stainless Steel Plate in Coils from Belgium Scope Inquiry*, dated November 16, 2007 and January 15, 2008, respectively.

On July 13, 2007, the Department issued a questionnaire to U&A Belgium. We received U&A Belgium's response to Section A of the Department's questionnaire on September 11, 2007, and Sections B-D on September 28, 2007. On January 18, 2008, the Department issued an extension of the deadline for the preliminary results of this antidumping duty administrative review from January 31, 2008, until May 30, 2008. See *Stainless Steel Plate in Coils From Belgium: Notice of Extension of Time Limit for Preliminary Results of Administrative Review*, 73 FR 3453 (January 18, 2008).

On October 29, 2007, the Department received comments from the Petitioners on the Sections A through C responses for U&A Belgium. On January 24, 2008,

<sup>1</sup> See *Notice of Amended Final Determinations: Stainless Steel Plate in Coils from Belgium and South Africa; and Notice of Countervailing Duty Orders: Stainless Steel Plate in Coils from Belgium, Italy and South Africa*, 64 FR 25288 (May 11, 1999); *Antidumping Duty Orders: Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999); *Notice of Amended Antidumping Duty Orders: Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 68 FR 11520 (March 11, 2003); and *Amended Countervailing Duty Orders: Certain Stainless Steel Plate in Coils From Belgium, Italy, and South Africa*, 68 FR 11524 (March 11, 2003).

the Petitioners submitted comments requesting that the Department conduct verification of the responses submitted by U&A Belgium. On February 5, 2008, U&A Belgium submitted comments urging the Department to reject the request for verification made by the Petitioners. After reviewing the Sections A through D responses from U&A Belgium, the Department issued supplemental questionnaires to U&A Belgium. The Department issued additional supplemental questions, after reviewing U&A Belgium's supplemental questionnaire response. On January 18, 2008, the Department postponed the preliminary results by 120 days. See *Stainless Steel Plate in Coils From Belgium: Notice of Extension of Time Limit for Preliminary Results of Administrative Review*, 73 FR 3453 (January 18, 2008).

#### U&A Belgium's Reported Merger

U&A Belgium reported that it is wholly owned by Arcelor S.A. and stated that Arcelor S.A. is in the process of merging with Mittal Steel, N.V. (Mittal) to form Arcelor Mittal S.A. Specifically, U&A Belgium reported that "in June 2006, Arcelor and Mittal Steel signed a memorandum of understanding outlining the terms of a merger. The subsequent merger agreement was signed in May 2007." See U&A Belgium's September 11, 2007, Section A Questionnaire Response at 10. U&A Belgium stated that the merger was structured as a two-step process. The first step, the merger of Mittal Steel into its wholly owned non-operating subsidiary ArcelorMittal, was completed in August 2007. The second step, the integration of ArcelorMittal into Arcelor S.A., was completed in November 2007, and the company was immediately renamed ArcelorMittal. As a result, the entire merger is now complete, effective November 2007. U&A Belgium stated that "while the merger was not technically completed during the review period, U&A Belgium prepared its responses to the Department's questionnaires as if ArcelorMittal were fully consolidated." See U&A Belgium's April 15, 2008, Sections A-C Supplemental Questionnaire Response (April 15, 2008 SQR) at 1. U&A Belgium also reported "that the merger has had no impact on U&A Belgium's production and sale of subject merchandise. In particular, there has been no change to U&A Belgium's inputs from affiliates within the review period resulting from the merger with Mittal Steel. There has also been no change to U&A Belgium's sales to affiliates within the POR resulting from the merger with Mittal Steel." *Id.* at 2.