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2445 M STREET NW  
WASHINGTON, DC 20037  
+1 202 663 6000  
+1 202 663 6363 fax  
www.wilmerhale.com

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**PUBLIC DOCUMENT**

Hon. Joseph A. Spetrini  
Acting Assistant Secretary for Import Administration  
International Trade Administration, Room 1870  
U.S. Department of Commerce  
Pennsylvania Avenue and 14th Street, NW  
Washington, D.C. 20230

**Re: Expected Non-Market Economy Wages: Request for Comments on  
Calculation Methodology**

Dear Mr. Spetrini:

On behalf of Lacquer Craft Manufacturing Company, Ltd. (“Lacquer Craft”), we hereby respond to the Department’s request for comments on the Department’s calculation methodology for determining non-market economy (NME) wage rates.<sup>1/</sup>

At the outset, Lacquer Craft notes that the Department’s methodology for calculating wage rates in NME cases, and more specifically, the wage rate used for China in the final determination of Wooden Bedroom Furniture from China (“WBF”), is on voluntary remand at the Court of International Trade (“CIT”). Lacquer Craft and Dorbest Limited, Rui Feng Woodwork (Dongguan) Co., Rui Feng Lumber Development (Shenzhen) Co., Ltd. (collectively,

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<sup>1/</sup> Department of Commerce, International Trade Administration, “Expected Non-Market Economy Wages: Request for Comment on Calculation Methodology,” 70 Fed. Reg. 37761 (June 30, 2005) (hereinafter “Department Request for Comment”).

“Dorbest”) have provided the Department with extensive comments pursuant to that redetermination. We hereby incorporate, by reference, our joint comments on the Department’s Draft Redetermination Issued on July 7, 2005 in that proceeding.<sup>2/</sup>

Because these issues are addressed extensively elsewhere, we will not engage here in an exhaustive discussion of our concerns with the Department’s wage rate calculation methodology. However, this submission summarizes our key concerns. For a more complete discussion of these issues, we direct the Department to our comments on the draft remand determination and to comments from the Ministry of Commerce of the People’s Republic of China (“MOFCOM”) in response to this request.<sup>3/</sup>

1. The Department’s Regulation Regarding the Calculation of NME Wage Rates Is Unlawful

In the Department’s Request for Comment, the Department explains that its regulations require use of “regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries” in calculating expected NME wage

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<sup>2/</sup> Letter from Kaye Scholer and Wilmer, Cutler, Pickering, Hale and Dorr, to The Honorable Carlos M. Gutierrez, *Joint Comments of Dorbest Limited and Lacquer Craft Manufacturing Company Limited on Draft Redetermination According to Remand: Wooden Bedroom Furniture from the People’s Republic of China (A-570-890)*, July 13, 2005 and Letter from Kaye Scholer and Wilmer, Cutler, Pickering, Hale and Dorr to The Honorable Carlos M. Gutierrez, *Joint Rebuttal Comments of Dorbest Limited and Lacquer Craft Manufacturing Company Limited on Draft Redetermination According to Remand: Wooden Bedroom Furniture from the People’s Republic of China (A-570-890)*, July 18, 2005.

<sup>3/</sup> Letter from Kaye Scholer to Joseph A. Spetrini, Comments of the Ministry of Commerce of the People's Republic of China on Calculation Methodology for Expected Non-Market Economy Wage, (Aug. 1, 2005).

rates.<sup>4/</sup> Yet, Section 773(c)(4)(A) requires the Department to value the factors of production, including labor hours, as specified in Section 773(c)(3)(A), i.e., in one or more market economy countries that are “at a level of economic development comparable to that of the non-market economy country” and which are “significant producers” of comparable merchandise. Because the Department’s regression methodology includes countries that are clearly not at a comparable level of economic development and are not significant producers of comparable merchandise, the Department’s methodology is inconsistent with the plain language of the statute and is, therefore, unlawful.

2. The Department Should Use the Wage Rate From the Primary Surrogate Country Selected for a Case

Given the Department’s statutory requirement to value factors of production, including labor, using data from countries that are at a similar level of development and are significant producers of comparable merchandise, the Department should rely on wage rate data from the primary surrogate country for calculating a surrogate wage rate. Therefore, for example, in cases such as WBF where India is selected as the surrogate country, the Department should rely on wage rate data from India. Using wage rates from the primary surrogate country insures consistency in factor values because by law the primary surrogate must be a significant producer of the subject merchandise. Therefore, the wage rate will reflect actual production at the subject merchandise.

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<sup>4/</sup> Department Request for Comment.

3. The Department Should Use Only Economically Comparable Countries

If the Department determines to not rely on data from a single country for valuing labor, it should rely on data only from countries that are economically comparable to the country being investigated. In proceedings involving China, the Department frequently finds that India, Pakistan, Indonesia, Sri Lanka and the Philippines are at stage of economic development comparable to China. Consistent with the statute, the Department should rely on data solely from these countries in calculating a surrogate wage rate.<sup>5/</sup>

4. If the Department Uses Its Regression-Based Analysis, It Must Adjust Its Pool of Countries

The Department currently uses ILO data of 56 countries in calculating its expected NME wages. Yet, even using the Department's own criteria, the ILO data from another 29 countries are arbitrarily excluded from the pool of countries used in the regression calculation. The Department provides neither legal nor statistical justification for this. As demonstrated in the MOFCOM and remand determination submissions, the Department's arbitrary exclusion of additional countries significantly distorts the results of the regression. If the Department continues to rely on its regression-based methodology in determining NME expected wage rates, it must adjust the pool of countries in its database for calculating expected NME wages to include all countries with useable data.

Before making any determination with regard to rates based on 2003 wage rates, the Department should take these and other comments filed today into account.

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<sup>5/</sup> As explained in more detail in our remand comments and the MOFCOM submission, the Department could rely on a simple average or its regression-based analysis. See these submissions for further discussion.

Hon. Joseph A. Spetrini  
August 1, 2005  
Page 5

Thank you for your consideration of these comments. An original and six copies of these comments are being submitted today. An electronic copy has been provided by e-mail. If you have any questions regarding this submission please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lynn M. Fischer Fox". The signature is written in a cursive, flowing style.

John D. Greenwald  
Lynn M. Fischer Fox  
Deirdre Maloney

Counsel for Lacquer Craft Manufacturing  
Company, Ltd.