



A-570-970
Changed Circumstances Review
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February 6, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Preliminary Changed Circumstances Review: Multilayered Wood
Flooring from the People's Republic of China

Summary

The Department of Commerce (the "Department") analyzed a request for an expedited changed circumstances review ("CCR") submitted by Zhejiang Fuma Warm Technology Co., Ltd. ("Zhejiang Fuma") to establish Zhejiang Fuma as the successor-in-interest to Huzhou Fuma Wood Bus. Co., Ltd. ("Huzhou Fuma"). As a result of our analysis, we recommend that the Department preliminarily determine that Zhejiang Fuma is the successor-in-interest to Huzhou Fuma.

Background

On November 24, 2014, the Department received a request on behalf of Zhejiang Fuma for an expedited CCR to establish Zhejiang Fuma as the successor-in-interest to Huzhou Fuma for purposes of the antidumping duty ("AD") order on multilayered wood flooring from the People's Republic of China ("PRC").¹ On December 22, 2014, the Department extended the time frame for determining whether to initiate a CCR by 30 days, until February 7, 2015.² On December 31, 2014, Zhejiang Fuma responded to the Department's supplemental questionnaire, which was issued on December 22, 2014.³ On January 20, 2015, Zhejiang Fuma responded to the

¹ See Letter from Zhejiang Fuma to the Department regarding, "Multilayered Wood Flooring from the People's Republic of China: Request for Expedited Changed Circumstances Review," (November 24, 2014) ("CCR Request").

² See Letter from Abdelali Elouaradia, Director, Office IV, AD/CVD Operations, to Zhejiang Fuma, regarding "Multilayered Wood Flooring From the People's Republic of China: Request for a Changed Circumstances Review" (December 22, 2014).

³ See Letter from Zhejiang Fuma to the Department, regarding "Multilayered Wood Flooring from the People's Republic of China: Request for Expedited Changes Circumstances Review" (December 31, 2014) ("Supplemental Questionnaire Response").



Department's second supplemental questionnaire, which was issued on January 14, 2015.⁴ We have received no comments opposing Zhejiang Fuma's request.

Scope of the Order

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, e.g., "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (i.e., without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (i.e., a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard ("HDF"), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (e.g., circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

⁴ See Letter from Zhejiang Fuma to the Department, regarding "Multilayered Wood Flooring from the People's Republic of China: Request for Expedited Changes Circumstances Review" (January 20, 2015) ("Second Supplemental Questionnaire Response").

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (“HTSUS”): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Issue: Whether the Department should establish Zhejiang Fuma as the successor-in-interest to Huzhou Fuma.

- In a July 18, 2011 Board of Shareholders meeting, the ownership of Huzhou Fuma authorized a name change to Zhejiang Fuma.⁵
- On July 21, 2011, the Huzhou City Administration for Industry and Commerce, Nanxun Branch, issued a new business license to Zhejiang Fuma reflecting the name change. The business licenses for both Zhejiang Fuma and Huzhou Fuma reflect identical business registration numbers, establishment date for the enterprise, legal address, legal representation, type of enterprise, and operation terms.⁶ Although Zhejiang Fuma has a slightly expanded business scope as compared with Huzhou Fuma, we note that this change is unrelated to the production and sale of the subject merchandise.⁷
- Zhejiang Fuma has provided documentation that Zhejiang Fuma is owned, managed and operated by the same ownership and management team as Huzhou Fuma. A capital verification report, share transfer agreement, and company status report demonstrate that Huzhou Fuma and Zhejiang Fuma have the same ownership.⁸ Additionally, the General Manager and Executive Director, and Financial Manager positions are held by the same individuals in both Zhejiang Fuma and Huzhou Fuma.⁹
- The production facility for Zhejiang Fuma is identical to the one previously utilized by

⁵ See CCR Request at Exhibit 1.

⁶ *Id.*, at Exhibits 2-3.

⁷ As explained by Zhejiang Fuma, the scope was expanded to include the production of ground heating flooring, which compliments, but does not replace, the production of subject merchandise. See Supplemental Questionnaire Response at 1.

⁸ *Id.*, at Exhibit 1; see also Second Supplemental Questionnaire Response at Exhibit 2S-1; see also Supplemental Questionnaire Response at Exhibit S-1.

⁹ See CCR Request at Exhibit 6; see also Supplemental Questionnaire Response at Exhibits S-1 and S-3.

Huzhou Fuma, which is located at the same address.¹⁰

- Zhejiang Fuma has had no material changes in the contractual relationships with suppliers of inputs or services previously used by Huzhou Fuma related to the production, sale and distribution of subject merchandise. Documentation provided by Zhejiang Fuma indicates that the suppliers of the main raw materials (e.g., log, veneer, plywood, etc.) changed slightly from 2010 through 2013, but that the suppliers of the most significant quantities of raw materials remained the same.¹¹
- Zhejiang Fuma has already exported to Huzhou Fuma's U.S. customers and will continue to export the subject merchandise under its own name. Zhejiang Fuma provided documentation of its U.S. customer base and stated there have been only small changes between Zhejiang Fuma's and Huzhou Fuma's customer base. Zhejiang Fuma explained that the only change to the customer base was an increase in customers due to market expansion.¹²

Department's Position: The Department has the authority, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.216(d), to conduct a review of an order whenever it receives information concerning or a request from an interested party which shows changed circumstances sufficient to warrant a review of such order.

In determining whether one company is the successor to another for purposes of applying the AD law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base.¹³ While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.¹⁴ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.¹⁵

Zhejiang Fuma has provided adequate evidence in response to the factors that the Department uses in making successor-in-interest determinations. Specifically, record evidence indicates that Zhejiang Fuma has the same ownership and management as Huzhou Fuma,¹⁶ uses similar suppliers of raw materials,¹⁷ produces the same merchandise on the same machinery and equipment at the same location,¹⁸ and sells the same merchandise to a similar customer base.¹⁹

¹⁰ See CCR Request at 6 and Exhibits 2-3; see also Supplemental Questionnaire Response at Question 2.

¹¹ See CCR Request at Exhibits 7-1 to 7-4; see also Supplemental Questionnaire Response at Exhibit S-4.

¹² See CCR Request at 6 and Exhibit 8.

¹³ See, e.g., Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber From Japan, 69 FR 61796, 61797 (October 21, 2004).

¹⁴ Id.

¹⁵ See, e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review, 70 FR 17063, 17064 (April 4, 2005); Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Administrative Review, 64 FR 9979, 9980 (March 1, 1999).

¹⁶ See CCR Request at Exhibits 1 and 6; see also Supplemental Questionnaire Response at Exhibits S-1 and S-3; see also Second Supplemental Questionnaire Response at Exhibit 2S-1.

¹⁷ See Supplemental Questionnaire Response at Exhibit S-4.

¹⁸ See CCR Request at Exhibits 2-3.

Recommendation: Based on our analysis of the information contained in Zhejiang Fuma's CCR Request, we recommend that the Department preliminarily determine that Zhejiang Fuma is the successor-in-interest to Huzhou Fuma for purposes of the AD order on multilayered wood flooring from the PRC.

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

6 FEBRUARY 2015

(Date)

¹⁹ See CCR Request at 6 and Exhibit 8.