



**UNITED STATES DEPARTMENT OF COMMERCE**  
**International Trade Administration**  
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December 31, 2015

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review: Multilayered Wood Flooring from  
the People's Republic of China

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## SUMMARY

In response to requests from interested parties, the Department of Commerce (“the Department”) is conducting an administrative review of the antidumping duty (“AD”) order on multilayered wood flooring (“MLWF”) from the People’s Republic of China (“PRC”) for the period of review (“POR”) from December 1, 2013 through November 30, 2014. The Department has preliminarily determined that both mandatory respondents, Dalian Penghong Floor Products Co., Ltd. (“Dalian Penghong”) and Fine Furniture (Shanghai) Limited (“Fine Furniture”) sold subject merchandise in the United States at prices below normal value (“NV”) during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess AD duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless extended, we intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the “Act”).



## Background

On December 8, 2011, the Department published in the *Federal Register* an antidumping duty order on wood flooring from the PRC.<sup>1</sup> On December 2, 2014, the Department published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on wood flooring from the PRC.<sup>2</sup> Between December 2, 2014, and December 31, 2014, the Department received requests from 54 foreign and domestic interested parties for administrative reviews of wood flooring from the PRC. Additionally, on December 31, 2014, the Department received a request from the Coalition for American Hardwood Parity (Petitioner), petitioner in the underlying investigation, to conduct administrative reviews of numerous exporters/producers of wood flooring from the PRC, many of which were already the subject of review requests filed by other parties. On February 4, 2015, the Department published in the *Federal Register* a notice of initiation of an administrative review of the wood flooring order with respect to companies for which a timely request for an administrative review of the applicable antidumping duty order was submitted.<sup>3</sup> On March 2, 2015, the Department published in the *Federal Register* a second notice of initiation of a wood flooring administrative review of one company that was inadvertently omitted from the first initiation notice and two other companies whose names were spelled incorrectly in the first initiation notice.<sup>4</sup>

## Period of Review

The POR is December 1, 2013 through November 30, 2014.

## Extension of Preliminary Results

On August 5, 2015, the Department extended the deadline for the preliminary results by a total of 90 days, to December 1, 2015.<sup>5</sup> On November 18, 2015, the Department extended the time period for issuing these preliminary results by an additional 30 days, until December 31, 2015.<sup>6</sup>

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<sup>1</sup> See *Multilayered Wood Flooring From the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011), as amended *Multilayered Wood Flooring from the People's Republic of China*, 77 FR 5484 (February 3, 2012) (amended AD and CVD orders).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 79 FR 71382 (December 2, 2014).

<sup>3</sup> *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 6041, 6044-46 (February 4, 2015) (“*Initiation Notice*”).

<sup>4</sup> *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 11166, 11168 (March 2, 2015) (“*Second Initiation Notice*”).

<sup>5</sup> See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Multilayered Wood Flooring from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review” (August 5, 2015).

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Multilayered Wood Flooring from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review” (November 18, 2015).

## 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.

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; 4412.31.3175; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.6000; 4412.31.9100; 4412.32.0520;

4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 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; 4412.99.5105; 4412.99.5115; 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.

### Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the review.

On March 4, 2015, the Department placed on the record CBP data for U.S. imports classified under the HTSUS subheadings identified in the scope of the AD order on MLWF from the PRC.<sup>7</sup> At that time, the Department invited interested parties to submit comments regarding the CBP data for use in respondent selection. On March 9, 2015, the Department received comments on the CBP data and respondent selection from Fine Furniture. On that date the Department also received comments from 41 other companies.<sup>8</sup> On March 27, 2015, at the Department's request, two separate rate companies submitted quantity and value responses.

On April 10, 2015, the Department determined in its respondent selection memorandum that it was not practicable to examine all of the companies on which it initiated reviews, because this number of respondents was too large to individually examine given the Department's current resource constraints, pursuant to section 777A(c)(2) of the Act. Therefore, in accordance with

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<sup>7</sup> See Memorandum to All Interested Parties from the Department, "Administrative Review of Multilayered Wood Flooring from the People's Republic of China for 2013 – 2014: Results of U.S. Customs and Border Protection Database Query" (March 4, 2015).

<sup>8</sup> See Letter from Fine Furniture regarding "Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China: Comments on Customs and Border Protection Data," dated March 9, 2015; see also Letter from Husch Blackwell LLP regarding "Multilayered Wood Flooring from the People's Republic of China: Comments on CBP Entry Data," dated March 9, 2015; see also Letter from deKieffer & Horgan, PLLC regarding "Multilayered Wood Flooring from the People's Republic of China: Comment on CBP Entry Data and Respondent Selection," dated March 9, 2015.

section 777A(c)(2)(B) of the Act, the Department selected for individual examination the two exporters accounting for the largest volume of MLWF exported from the PRC during the POR based on CBP data and the two quantity and value submissions referenced above.<sup>9</sup> Those two companies are Fine Furniture and Dalian Penghong.

The Department issued its AD questionnaire to Fine Furniture and Dalian Penghong on April 15, 2015. Between May 6, 2015 and November 4, 2015, Fine Furniture and Dalian Penghong submitted timely responses to the Department's original and supplemental questionnaires.

## DISCUSSION OF THE METHODOLOGY

### Non-Market Economy Country

The Department considers the PRC to be a non-market economy (“NME”) country.<sup>10</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

### Separate Rate

There is a rebuttable presumption that all companies within an NME are subject to government control and, thus, should be assessed a single AD rate. In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.<sup>11</sup> It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Sparklers*,<sup>12</sup> as amplified by *Silicon Carbide*.<sup>13</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market economy (“ME”), then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>14</sup>

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<sup>9</sup> See Memorandum to Howard Smith, Acting Director, Office IV, Antidumping and Countervailing Duty Operations: “Selection of Respondents for the 2013-2014 Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China” (April 10, 2015).

<sup>10</sup> See, e.g., *Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 70267, 70268 (November 25, 2013), unchanged in *Multilayered Wood Flooring From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2014).

<sup>11</sup> See *Initiation Notice*, 80 FR at 6044-46 and *Second Initiation Notice*, 80 FR at 11168.

<sup>12</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”).

<sup>13</sup> See *Notice of 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*”).

<sup>14</sup> See *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

## A. Separate Rate Applicants

### 1. Joint Ventures between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

The Department received separate rate applications from ten companies (“Separate Rate Applicants”) on whom it initiated a review, and preliminarily determines that they demonstrated their eligibility for a separate rate.

1. Dalian Shumaike Floor Manufacturing Co., Ltd.
2. Dalian Xinjinghua Wood Co., Ltd.
3. Henan Xingwangjia Technology Co., Ltd.
4. Jiangsu Yuhui International Trade Co., Ltd.
5. Huzhou Ruifeng Imp. & Exp. Co., Ltd.
6. Dunhua Shengda Wood Industry Co., Ltd.
7. Zhejiang Shuimojiangnan New Material Technology Co., Ltd.
8. Hunchun Xingjia Wooden Flooring Inc.
9. Xuzhou Antop International Trade Co., Ltd.
10. Yekalon Industry, Inc.

The ten Separate Rate Applicants listed above, as well as Dalian Penghong, provided evidence that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies.<sup>15</sup> The Department analyzed whether each of these companies has demonstrated an absence of *de jure* and *de facto* government control over its respective 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) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.<sup>16</sup>

The evidence provided by the Separate Rate Applicants, Dalian Penghong and Fine Furniture, supports a preliminary finding of an absence of *de jure* government control for each of these companies based on the following: (1) an absence of restrictive stipulations associated with the individual exporter’s business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Chinese companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.<sup>17</sup>

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<sup>15</sup> See company-specific Separate Rate Applications submitted to the Department between March 9, 2015 and April 7, 2015 (“Separate Rate Applications”).

<sup>16</sup> See *Sparklers*, 56 FR at 20589.

<sup>17</sup> See Separate Rate Applications.

b. Absence of *De Facto* Control

Typically, the Department considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (“EP”) 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 the disposition of profits or financing of losses.<sup>18</sup> The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by the Separate Rate Applicants, Dalian Penghong, and Fine Furniture supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing that the companies: (1) set their own constructed export prices (“CEP”) or EPs independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.<sup>19</sup>

Therefore, the evidence placed on the record of this review by the Separate Rate Applicants and the mandatory respondents demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.

2. Wholly Foreign-Owned Companies

In addition to Fine Furniture, Les Planchers Mercier, Inc. provided evidence in its separate rate application that it is a wholly owned by individuals and companies located in ME countries.<sup>20</sup> Moreover, the Department has no record evidence indicating that either of these companies is under the control of the PRC government. For these reasons, it is not necessary for the Department to conduct a separate rate analysis to determine whether those companies are independent from government control.<sup>21</sup> Therefore, the Department has preliminarily granted a separate rate to Les Planchers Mercier, Inc. and Fine Furniture.

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<sup>18</sup> 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).

<sup>19</sup> See Separate Rate Applications.

<sup>20</sup> *Id.*

<sup>21</sup> See *Seamless Refined Copper Pipe and Tube from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 26716, 26720 (May 12, 2010), unchanged in *Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725 (October 1, 2010).

## B. Separate Rate Certifications

The Department received Separate Rate Certifications from 63 companies that received a separate rate from a prior segment of this proceeding and were not selected for individual investigation in this review. The evidence placed on the record in this review by these companies demonstrates a continued absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*.<sup>22</sup> Accordingly, the Department has preliminarily determined that the 63 companies listed in Appendix 1 have demonstrated that they continue to be eligible for a separate rate.

## C. No Shipment Certifications

1. Changbai Mountain Development and Protection Zone Hongtu Wood Industrial Co., Ltd.
2. Dalian T-Boom Wood Products Co., Ltd.
3. Hangzhou Zhengtian Industrial Co., Ltd.
4. Jiangsu Guyu International Trading Co., Ltd.
5. Jiangsu Mingle Flooring Co., Ltd.
6. Linyi Bonn Flooring Manufacturing Co., Ltd.
7. Shanghai Eswell Timber Co., Ltd.
8. Shenyang Senwang Wooden Industry Co., Ltd.
9. Tongxiang Jisheng Import and Export Co., Ltd.
10. Zhejiang Fuerjia Wooden Co., Ltd.

The ten companies listed above submitted certifications that they did not ship subject merchandise to the United States during the POR.<sup>23</sup> The Department confirmed the companies' certifications of no shipment with CBP. As a result, each of these companies will maintain its current rate and will not be included in the separate rate calculated by this review.

### Rate for Non-Examined, Separate Rate Respondents

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual separate rate respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for separate rate respondents which were not examined in an administrative review.

Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any

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<sup>22</sup> See company-specific Separate Rate Certifications submitted to the Department between March 9, 2015 and April 7, 2015 ("Separate Rate Certifications").

<sup>23</sup> See company-specific No Shipment Certifications submitted to the Department between March 9, 2015 and April 7, 2015 ("No Shipment Certifications").

margins determined entirely {on the basis of facts available}.” In these preliminary results, the Department has calculated rates for Dalian Penghong and Fine Furniture that are not zero, *de minimis*, or based entirely on facts available. Therefore, the Department has assigned to the companies that have not been individually examined but have demonstrated their eligibility for a separate rate, a margin of 13.34 percent, which is the weighted average of the weighted average dumping margins calculated for Dalian Penghong and Fine Furniture.

#### Companies that Did Not Establish Their Eligibility For A Separate Rate

Upon initiation of this administrative review, as explained above, we provided the opportunity for all companies for which we initiated the review to complete either the separate rate application or certification.<sup>24</sup> We have preliminarily determined that the following companies named in the *Initiation Notice* did not submit to the Department either a certification of no sales, a separate rate application, or a separate rate certification: Anhui Suzhou Dongda Wood Co., Ltd., Baiying Furniture Manufacturer Co., Ltd., Fu Lik Timber (HK) Co., Ltd., Cheng Hang Wood Co., Ltd., Dalian Huilong Wooden Products Co., Ltd., Dalian Jiuyuan Wood Industry Co., Ltd., Guangzhou Homebon Timber Manufacturing Co., Ltd., HaiLin XinCheng Wooden Products, Ltd., Hangzhou Dazhuang Floor Co., Ltd (dba Dasso Industrial Group Co., Ltd), Linyi Anying Wood Co., Ltd., Qingdao Barry Flooring Co., Ltd.,<sup>25</sup> Shanghai Anxin (Weiguang) Timber Co., Ltd., Vicwood Industry (Suzhou) Co. Ltd., Xiamen Yung De Ornament Co., Ltd., Yingyi-Nature (Kunshan) Wood Industry Co., Ltd., Zhejiang AnJi XinFeng Bamboo & Wood Industry Co., Ltd., Zhejiang Desheng Wood Industry Co., Ltd., Zhejiang Haoyun Wooden Co., Ltd., and Zhejiang Shiyou Timber Co., Ltd. Thus, these companies have failed to demonstrate that they are eligible for a separate rate, and are considered part of the PRC-wide entity.<sup>26</sup>

Because no party requested a review of the PRC-wide entity and the Department no longer considers the PRC-wide entity as an exporter conditionally subject to administrative reviews,<sup>27</sup> we did not conduct a review of the PRC-wide entity. Thus, the rate for the PRC-wide entity is not subject to change as a result of this review. Therefore, if our determination regarding these 19 companies is unchanged in the final results, entries for the 19 companies identified above will be assessed antidumping duties at the cash deposit rate previously established for the PRC-wide entity (*i.e.*, 58.84 percent).<sup>28</sup>

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<sup>24</sup> See *Initiation Notice*, 80 FR at 60446 and *Second Initiation Notice*, 80 FR at 11168. The separate rate certification and separate rate application were available at: <http://ia.ita.doc.gov/nme/nme-sep-rate.html>.

<sup>25</sup> We note that Qingdao Barry is currently subject to a new shipper review that covers the same POR as this administrative review. The only sale(s) made by Qingdao Barry during that period are being reviewed in the new shipper review. As a result, the Department may rescind this administrative review as to Qingdao Barry in the final results if there are no reviewable entries that remain subject to this administrative review.

<sup>26</sup> See *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 47363, 47365 (August 8, 2012), unchanged in *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 10130 (February 13, 2013).

<sup>27</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

<sup>28</sup> Effective July 16, 2015, the cash deposit rate applicable to the PRC-wide entity is 25.62 percent. However, that date is outside of the POR established for this review.

## Surrogate Country and Surrogate Value Data

When the Department investigates 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 ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing an FOP, the Department shall utilize, to the extent possible, the prices or costs of the FOP in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>29</sup> The Department determined that Bulgaria, Romania, Ecuador, Ukraine, South Africa, and Thailand are countries with *per capita* gross national incomes that are comparable to the PRC.<sup>30</sup>

On June 15, 2015, the Department received consolidated surrogate country comments from Fine Furniture and Petitioner.<sup>31</sup> Fine Furniture suggested that Thailand should serve as the surrogate country. Petitioner indicated that based on economic comparability and significant production, all six of the companies identified in the surrogate country memo could be used as the surrogate country.<sup>32</sup> In various submissions, Fine Furniture, Dalian Penghong, and Lumber Liquidators Services LLC argued that the Department should not select Romania as a surrogate country in this review (despite the existence of Romanian SV data on the record).

### A. Economic Comparability

As explained in our letter to interested parties, Bulgaria, Romania, Ecuador, Ukraine, South Africa, and Thailand are all at the same level of economic development as the PRC.<sup>33</sup> Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, we will rely on data from one of these countries. Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.

### B. Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable

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<sup>29</sup> See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin").

<sup>30</sup> See Letter from the Department to Interested Parties, "2013-2014 Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information" (May 15, 2015).

<sup>31</sup> See Letter from Fine Furniture, "Multilayered Wood Flooring from the People's Republic of China: Surrogate Country Comments" (June 15, 2015), See also Letter from Petitioner, "Multilayered Wood Flooring from the People's Republic of China" (June 15, 2015).

<sup>32</sup> See Petitioners' June 15, 2015, Surrogate Country submission.

<sup>33</sup> See Letter from the Department to Interested Parties, "2013-2014 Antidumping Duty Administrative Review of Multilayered Wood Flooring from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information" (May 15, 2015), at Attachment 1.

merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that “in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>34</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country. Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>35</sup> Based on the information placed on record of this review, the Department finds that Bulgaria, Romania, Ecuador, Ukraine, South Africa, and Thailand are all significant producers of comparable merchandise.<sup>36</sup>

### C. Data Availability

If more than one potential surrogate country satisfies the statutory requirements for selection as a surrogate country, the Department selects the primary surrogate country based on data availability and reliability.<sup>37</sup> When evaluating surrogate value (“SV”) data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input.<sup>38</sup> There is no hierarchy among these criteria. It is the Department’s practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.<sup>39</sup> Additionally, pursuant to 19 CFR 351.408(c)(2), the Department has a preference of valuing all FOPs in a single surrogate country (with the exception of labor).

The mandatory respondents, Fine Furniture and Dalian Penghong, as well as Petitioner, filed SV comments and information. Petitioner and Fine Furniture filed rebuttal comments. As a result of those submissions, the record of this review contains specific, contemporaneous, and high-quality data from Thailand and Romania to value all FOPs.<sup>40</sup>

As explained above and in more detail in the Surrogate Country Memo, data considerations lead us to preliminarily select Romania, rather than Thailand, as the most appropriate primary surrogate country. Romania has publicly available and reliable data with which to value the mandatory respondents’ FOPs that are in certain instances more specific than available data from

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<sup>34</sup> See *Policy Bulletin*.

<sup>35</sup> See *Sebacic Acid from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 65674, 65675-76 (December 15, 1997) (“{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.”).

<sup>36</sup> See *Surrogate Country Memo*.

<sup>37</sup> See *Policy Bulletin*.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Letter from Fine Furniture regarding Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Surrogate Value Comments, dated June 29, 2015; Letter from Dalian Penghong regarding Multilayered Wood Flooring from the People’s Republic of China- Section Surrogate Values for Preliminary Results, dated June 29, 2015; Letter from Petitioner regarding Multilayered Wood Flooring from the People’s Republic of China, dated November 24, 2015.

Thailand.<sup>41</sup> For example, the Romanian HTS schedule contains categories specific to wood species and thicknesses reported by the mandatory respondents; by contrast, the Thai HTS schedule does not contain species-specific categories. These wood inputs are major inputs into the production of wood flooring. Additionally, we find that the record contains useable financial statements from Romania, as set forth below in the “Factor Valuations” section of this memorandum. Therefore, in accordance with section 773(c)(4) of the Act and 19 CFR 351.408(c)(2), the Department preliminarily determines that Romania is the most appropriate primary surrogate country for purposes of this administrative review.

### Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), “use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business.” In *Allied Tube*, the CIT noted that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that ‘a different date better reflects the date on which the exporter or producer establishes the material terms of sale.’”<sup>42</sup> Additionally, the Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>43</sup> This normally includes the price, quantity, delivery terms and payment terms.<sup>44</sup> For the mandatory respondents, Dalian Penghong and Fine Furniture, nothing on the record reflects that a date other than the invoice date better reflects the date on which the material terms of sales are established. Accordingly, the Department has preliminarily determined to use the invoice date as the date of sale for both Dalian Penghong and Fine Furniture.

### Fair Value Comparisons

To determine whether Dalian Penghong’s and Fine Furniture’s sales of subject merchandise were made at less than NV, we compared EP or CEP to NV, as described in the “Export Price,” “Constructed Export Price” and “Normal Value” sections below.<sup>45</sup>

#### A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (the average-to-average method)

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<sup>41</sup> See Surrogate Country Memo.

<sup>42</sup> See *Allied Tube & Conduit Corp. v. United States* 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (“*Allied Tube*”).

<sup>43</sup> See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090-1092.

<sup>44</sup> See, e.g., *Carbon and Alloy Steel Wire Rod From Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 72 FR 62824 (November 7, 2007), and accompanying Issue and Decision Memorandum at Comment 1; *Notice of Final Determinations of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>45</sup> In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (“*Final Modification for Reviews*”).

unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.<sup>46</sup>

In recent investigations and reviews, the Department applied a “differential pricing” analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>47</sup> The Department finds the differential pricing analysis used in those recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, city name, zip code, *etc.*) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen's *d* test” is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference

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<sup>46</sup> See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>47</sup> See *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) and accompanying Issues and Decision Memorandum at Comment 3; see also *Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation*, 78 FR 25946 (May 3, 2013), unchanged in *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and accompanying Issues and Decision Memorandum at Comment 3.

between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. The Cohen's *d* coefficient evaluates the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

## B. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, the Department finds that 61.40 percent of Dalian Penghong's export sales confirm the existence of a pattern of EPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.<sup>48</sup> As such, the Department finds that these results support consideration of an alternative to the average-to-average method. However, when comparing the weighted-average dumping margin calculated based on the standard method (*i.e.*, the average-to-average method for all U.S. sales) and the weighted-average dumping margin calculated based on the appropriate alternative method (*i.e.*, the mixed-alternative method for all U.S. sales), there is no meaningful difference in the results.<sup>49</sup> Accordingly, the Department has determined to use the standard method in making comparisons of EP and NV for Dalian Penghong.

For Fine Furniture, the Department finds that 53.20 percent of Fine Furniture's export sales confirm the existence of a pattern of CEPs for comparable merchandise that differs significantly among purchasers, regions, or time periods.<sup>50</sup> As such, the Department finds that these results support consideration of an alternative to the alternative-to-average method. However, when comparing the weighted-average dumping margin calculated based on the standard method (*i.e.*, the average-to-average method for all U.S. sales) and the weighted-average dumping margin calculated based on the appropriate alternative method, there is no meaningful difference in the results.<sup>51</sup> Accordingly, the Department has determined to use the standard method in making comparisons of CEP and NV for all of Fine Furniture's U.S. sales.

### Affiliation and Single Entity Status

Pursuant to 19 CFR 351.401(f)(1), the Department will treat producers as a single entity, or "collapse" them, where: (1) those producers are affiliated; (2) the producers have production facilities for producing similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (3) there is a significant potential for manipulation of price or production. In determining whether a significant potential for manipulation exists, 19 CFR 351.401(f)(2) states that the Department may consider various factors, including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether the operations of the affiliated firms are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

"Collapsing" starts with a determination as to whether two or more companies are affiliated. Section 771(33) of the Act, identifies persons that shall be considered "affiliated" or "affiliated persons," including, *inter alia*: (1) under section 771(33)(A) of the Act, "{m}embers of a family"; (2) under section 771(33)(F) of the Act, "{t}wo or more persons directly or indirectly

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<sup>48</sup> See company-specific analysis memoranda.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

controlling, controlled by, or under common control with, any person”; and (3) under section 771(33)(G) of the Act, “any person who controls any other person and such other person” are affiliated persons. The Act further specifies that “a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.”<sup>52</sup>

Based on the evidence presented in Dalian Penghong’s questionnaire responses, we preliminarily find: (1) that Dalian Penghong is affiliated with a certain glue producer within the meaning of sections 771(33)(A), (F), and (G) of the Act; and (2) that Dalian Pengong and Dalian Shumaiké Floor Manufacturing Co., Ltd. (“Shumaiké”) are affiliated within the meaning of section 773(33)(F) of the Act. We also preliminarily determine to collapse Dalian Penghong and Shumaiké for antidumping duty purposes, within the meaning of 19 CFR 351.401(f), because we find that those two affiliated companies have production facilities for similar or identical products that would not require substantial retooling to restructure manufacturing priorities and that there is a significant potential for manipulation of price or production. Regarding the significant potential for manipulation of price or production, in addition to a high level of common ownership, the record indicates that operations of Dalian Penghong and Shumaiké were intertwined during the period of review.<sup>53</sup>

## U.S. Price

### A. Export Price

In accordance with section 772(a) of the Act, EP is “the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. We used the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We find that certain sales by Fine Furniture and all of Dalian Penghong’s sales in this review are EP sales.

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price

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<sup>52</sup> See Section 771(33) of the Act.

<sup>53</sup> For additional information regarding the Department’s analysis, including certain business proprietary details, see Memorandum to Abdelali Elouaradia re: “Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People’s Republic of China: Dalian Penghong Floor Products Co., Ltd.: Preliminary Affiliation and Single Entity Memorandum” (December 31, 2015). We note that the record reflects that Dalian Penghong and Shumaiké were not affiliated until April 2014 (*i.e.*, approximately 4 months into the POR). Because the record does not support treating Dalian Penghong as a single entity with Shumaiké prior to the date of affiliation (*i.e.*, April 2014), separate assessment rates will apply for the period from 11/30/2013 through 3/31/2014. In particular, the assessment rate for any entries by Shumaiké will be 13.34 percent (the rate applicable to unexamined separate rate companies) and the assessment rate for any entries by Dalian Penghong will be 0.00.

(gross unit price) for foreign inland freight, domestic brokerage and handling, international movement expenses and billing adjustments, as applicable.<sup>54</sup>

## B. Constructed Export Price

In accordance with section 772(b) of the Act, CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” We used CEP for certain of Fine Furniture’s sales and we based CEP on prices to the first unaffiliated purchaser in the United States in accordance with section 772(b) of the Act.

Where appropriate, we made deductions from the starting price (gross unit price) for: billing adjustments, rebates, foreign movement expenses, including inland freight from plant to port; brokerage and handling expenses; international movement expenses, including ocean freight; U.S. warehousing expenses, and marine insurance; U.S. movement expenses, including U.S. inland freight from port to warehouse and U.S. inland freight from warehouse to unaffiliated customer; and other expenses, including U.S. duties and appropriate selling expenses, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, where appropriate. Specifically, we deducted, where appropriate, inventory carrying costs, credit expenses, warranty, and indirect selling expenses. Where foreign movement expenses were provided by PRC service providers or paid for in PRC currency, we valued these services using SVs. For those expenses that were provided by an ME provider and paid for in an ME currency, we used the reported expense. Moreover, we adjusted CEP for interest revenue and repacking costs, where applicable, in accordance with section 772(d)(1) and section 772(c)(2)(A) of the Act.<sup>55</sup>

## Value Added Tax

In 2012 the Department announced a change of methodology with respect to the calculation of EP and CEP to include an adjustment for the amount of any un-refunded (herein “irrecoverable”) value added tax (“VAT”) in certain NMEs, in accordance with section 772(c)(2)(B) of the Act.<sup>56</sup> The Department explained that when an NME government imposes an export tax, duty, or other charge on subject merchandise, or on inputs used to produce subject merchandise, from which the respondent was not exempted, the Department will reduce the respondent’s EP and CEP prices accordingly, by the amount of the tax, duty or charge paid, but not rebated. Where the irrecoverable VAT is a fixed percentage of EP or CEP, the Department explained that the final

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<sup>54</sup> See company-specific preliminary analysis memoranda.

<sup>55</sup> See Fine Furniture preliminary analysis memorandum.

<sup>56</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings*, 77 FR 36481 (June 19, 2012).

step in arriving at a tax neutral dumping comparison is to reduce the U.S. EP or CEP downward by this same percentage.<sup>57</sup>

In both the initial and supplemental questionnaires, the Department instructed Dalian Penghong and Fine Furniture to report VAT on merchandise sold to the United States and identify which taxes are not rebated upon export.<sup>58</sup> Information placed on the record of this review by the Department indicates that according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is 9 percent.<sup>59</sup>

The Department's methodology, as explained above and applied in this review, incorporates two basic steps: (1) determine the irrecoverable VAT on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. For the purposes of these preliminary results, therefore, we removed from U.S. price the difference between the rates (*i.e.*, eight percent), which is the irrecoverable VAT as defined under Chinese tax law and regulation.<sup>60</sup>

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and 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. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's 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; and (3) representative capital costs. The Department used FOPs reported by the respondents for materials, labor, packing and byproducts.

### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by the respondents for the POR. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). Our practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, SVs which are product-specific, representative of a broad market average, publicly available, contemporaneous with the POR, and exclusive of taxes and duties.<sup>61</sup>

As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs the surrogate freight cost using the shorter of the

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<sup>57</sup> *Id.*

<sup>58</sup> See "Antidumping Questionnaire," C-26-27, issued to Dalian Penghong and Fine Furniture on April 15, 2015.

<sup>59</sup> See June 20, 2014 Memo to the File: Placing on the Record "Ministry of Finance and State Administration of Taxation, Circular on Further Promotion of 'Exemption, Deduction and Refund' of Tax for Exported Merchandise" ("Circular 7").

<sup>60</sup> See company-specific analysis memoranda.

<sup>61</sup> See, e.g., *Electrolytic Manganese Dioxide From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008), and the accompanying Issues and Decision Memorandum at Comment 2.

reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

For the preliminary results, except where noted below, we used data from the Romanian import statistics in Global Trade Atlas ("GTA") and other publicly available Romanian sources in order to calculate SVs for the respondents' FOPs (*i.e.*, direct materials and packing materials) and certain movement expenses. As noted above, when selecting the best available information for valuing FOPs, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.<sup>62</sup> The record shows Romanian import statistics obtained through GTA are publicly available, contemporaneous with the POR, product-specific, tax-exclusive, and represent broad market averages.<sup>63</sup>

The Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.<sup>64</sup> In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>65</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating

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<sup>62</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004).

<sup>63</sup> See Surrogate Value Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China (December 31, 2015) ("Prelim SV Memorandum").

<sup>64</sup> This practice has been codified. See section 505 of the Trade Preferences Extension Act of 2015, Pub. Law 114-27 (June 29, 2015) (amending section 773(c)(5) of the Act to permit Department to disregard price or cost values without further investigation if it has determined that certain subsidies existed with respect to those values); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46795 (August 6, 2015).

<sup>65</sup> See *Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; *Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review*, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

the import-based SVs. Additionally, we disregarded prices from NME countries.<sup>66</sup> Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>67</sup>

On August 2, 2013, the Department amended 19 CFR 351.408.<sup>68</sup> Pursuant to amended 19 CFR 351.408(c)(1), for all proceedings initiated after September 3, 2013, when a respondent sources inputs from an ME supplier and paid for the inputs in ME currency in meaningful quantities, the Department uses the actual price paid by the respondent to value those inputs, if substantially all of the factor, by total volume, is purchased from the ME supplier. In accordance with the amended regulation, substantially all is defined to be 85 percent or more of the total volume purchased of the factor.<sup>69</sup> Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 85 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 ME 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.<sup>70</sup> When a firm has made ME 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 ME purchases meet the 85 percent threshold. We applied this framework when analyzing ME inputs reported by respondents in this review. Where appropriate, we added freight expense to the ME prices for these inputs.

We valued truck freight expenses using average truck rates from the World Bank’s report, *Doing Business 2015: Romania (“Doing Business”)*.<sup>71</sup> This World Bank report gathers information concerning the distance and cost to transport products in a 20-foot container from the periurban area (*i.e.*, Bucharest) of the economy’s largest business city (Bucharest) to the country’s major port (*i.e.*, Constanta).<sup>72</sup> We calculated a per-kilogram/per-kilometer surrogate inland freight rate of 0.00032 U.S. dollars per per-kilogram/per-kilometer based on using the full capacity of a 20-foot container as reported in the World Bank report.<sup>73</sup>

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<sup>66</sup> See *Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 9591, 9600 (March 5, 2009), unchanged in *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) and *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*, 74 FR 46971 (September 14, 2009).

<sup>67</sup> *Id.*

<sup>68</sup> See *Use of Market Economy Input Prices in Nonmarket Economy Proceedings*, 78 FR 46799 (August 2, 2013).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> See Petitioners’ SV Comments dated November 24, 2015. The Introduction to *Doing Business* states, “The data in this report are current as of June 1, 2013 (except for paying taxes indicators, which cover the period January-December 2012).” Therefore, the information is contemporaneous with the POR.

<sup>72</sup> See *Doing Business* at 71 and Petitioners’ November 24, 2015, SV Comments, at Exhibit 9.

<sup>73</sup> See Prelim SV Memorandum.

To calculate the labor input, we based our calculation on the methodology outlined by the Department in *Labor Methodologies*.<sup>74</sup> In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country.<sup>75</sup> Additionally, the Department determined that Chapter 6A: Labor Cost in Manufacturing, from the International Labour Organization (“ILO”) Yearbook of Labour Statistics (“Yearbook”), as compared to Chapter 5B data of the ILO Yearbook, is the preferred source where another source is not more appropriate.<sup>76</sup>

In these preliminary results, the Department calculated the labor input using data from National Institute of Statistics data for 2013.<sup>77</sup> Consistent with section 773(c)(1) of the Act, we continue to follow our practice of selecting the “best available information” to determine SVs for inputs, such as labor. Thus, we find that the 2013 data are the best available information for valuing labor for this segment of the proceeding. Specifically, the 2013 data are contemporaneous with the POR, whereas ILO Chapter 6A data from Romania are from 2008. Additionally, the 2013 data are industry-specific, and reflect all costs related to labor, including wages, benefits, housing, and training. For these preliminary results, we have calculated the wage rate as 9.09 Lei/hour.<sup>78</sup>

When choosing surrogate financial statements from which we derive the financial ratio, the Department considers the availability of contemporaneous financial statements, comparability to the respondent’s experience, and whether the data are publicly available.<sup>79</sup> Moreover, for valuing factory overhead, selling general and administrative (“SG&A”) expenses, and profit, the Department normally will use non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. In addition, the CIT has held that in the selection of surrogate producers, the Department may consider how closely the surrogate producers approximate the NME producer’s experience.<sup>80</sup>

The record includes financial statements from three companies in Thailand and one in Romania. All of the surrogate financial statements on the record of this review from Romania and Thailand are for fiscal years ending in either December 31, 2013, or December 31, 2014, both of which are contemporaneous with this POR. All Thai and Romanian financial statements on the record are from producers of plywood, *i.e.*, comparable merchandise. In particular, the record contains three Thai financial statements for the following producers: Neotech Plywood Co., Ltd., Lampang Product Ordinary Partnership, and Eiwlee Industrial Co., Ltd.; and one financial statement for the following Romanian producer: SC Sigstrat SA. We find that the financial

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<sup>74</sup> See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”).

<sup>75</sup> *Id.*, at 36093.

<sup>76</sup> *Id.*

<sup>77</sup> See Prelim SV Memorandum.

<sup>78</sup> *Id.*

<sup>79</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 24502 (May 10, 2005), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>80</sup> See, e.g., *Diamond Sawblades and Parts Thereof from the People’s Republic of China, Final Determination in the Antidumping Duty Investigation*, 71 FR 29303 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also section 773(c)(4) of the Act and 19 CFR 351.408(c)(4).

statements of Neotech Plywood Co., Ltd., Lampang Product Ordinary Partnership, and SC Sigstrat SA are useable; they are contemporaneous financial statements of producers of comparable merchandise, contain no evidence of countervailable subsidies, and contain no qualified opinions.<sup>81</sup> The Department's preference is to value all FOPs, except labor, in a single surrogate country pursuant to 19 CFR 351.408(c)(2). Accordingly, because we have a useable financial statement from the primary surrogate country, Romania, we have preliminarily used SC Sigstrat SA's financial statement for the calculation of surrogate financial ratios.

The Department's practice is to grant respondents an offset to the reported FOPs for by-products generated during the production of the merchandise under consideration if evidence is provided that such by-product has commercial value. Also, for waste or by-products sold to unaffiliated parties, it is the Department's practice to offset NV costs with the sales revenue of the waste or byproduct.<sup>82</sup> Dalian Penghong did not report any by-products or waste generated in the production of subject merchandise and the Department has, therefore, made no offsets. Fine Furniture reported saw dust as a by-product in its production process, and appropriately substantiated its entitlement to an offset. Accordingly, we have offset Fine Furniture's NV accordingly.

#### Adjustment Under Section 777A(f) of the Act

In applying section 777A(f) of the Act in this administrative review, the Department examines: (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted-average dumping margin for the class or kind of merchandise.<sup>83</sup> For a subsidy meeting these criteria, the statute requires the Department to reduce the antidumping duty by the estimated amount of the increase in the weighted-average dumping margin subject to a specified cap.<sup>84</sup> In conducting this analysis, the Department has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute.

Since the Department has relatively recently started conducting an analysis under section 777A(f) of the Act, the Department is continuing to refine its practice in applying this section of the law. The Department examined whether Fine Furniture or Dalian Penghong demonstrated: (1) a subsidies-to-cost link, *e.g.*, subsidy impact on cost of manufacture ("COM"); and (2) a cost-to-price link, *e.g.*, respondent's prices changed as a result of changes in the COM.

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<sup>81</sup> We do not consider the financial statements of Eiwlee Industrial Co., Ltd. to be reliable for purposes of this review, for the same reason explained in the second review of this case. *See* Fine Furniture's June 29, 2015 submission on surrogate value comments at page 369.

<sup>82</sup> *Id.*

<sup>83</sup> *See* sections 777A(f)(1)(A)-(C) of the Act.

<sup>84</sup> *See* sections 777A(f)(1)-(2) of the Act.

Respondents did not demonstrate that subsidy programs, through their impact on the cost of manufacturing subject merchandise, were taken into consideration in setting prices to the U.S. market, as is required by 777A(f)(1)(C). Accordingly, we made no adjustments for double remedies to the respondents' margins for purposes of the preliminary results.<sup>85</sup>

Currency Conversion

Where necessary, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

Recommendation

We recommend applying the above methodology for these preliminary results.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

\_\_\_\_\_  
Date

<sup>85</sup> See Fine Furniture's Section C Response, dated June 5, 2015, at pages 1-9; Dalian Penghong's Section C & D Response, dated June 5, 2015, at pages 19-24; see also Fine Furniture's Supplemental Section D Response, dated September 25, 2015, at pages 1-2; Dalian Penghong's Section D Response, dated September 28, 2015, at pages 15-16..

## Appendix 1

1. A&W (Shanghai) Woods Co., Ltd.
2. Anhui Longhua Bamboo Product Co., Ltd.
3. Armstrong Wood Products (Kunshan) Co., Ltd.
4. Baishan Huafeng Wood Product Co., Ltd.
5. Benxi Wood Company
6. Changzhou Hawd Flooring Co., Ltd.
7. Chinafloors Timber (China) Co., Ltd.
8. Dalian Dajen Wood Co., Ltd.
9. Dalian Huade Wood Product Co., Ltd.
10. Dalian Kemian Wood Industry Co., Ltd.
11. Dasso Industrial Group Co., Ltd.
12. Dongtai Fuan Universal Dynamics, LLC
13. Dun Hua City Jisen Wood Industry Co., Ltd.
14. Dun Hua Sen Tai Wood Co., Ltd.
15. Dunhua City Dexin Wood Industry Co., Ltd.
16. Dunhua City Hongyuan Wood Industry Co., Ltd.
17. Dunhua City Wanrong Wood Industry Co., Ltd.
18. Fusong Jinlong Wooden Group Co., Ltd.
19. Fusong Qianqiu Wooden Product Co., Ltd.
20. GTP International Ltd.
21. Guangdong Yihua Timber Industry Co., Ltd.
22. Guangzhou Panyu Kangda Board Co., Ltd.
23. Guangzhou Panyu Southern Star Co., Ltd.
24. HaiLin LinJing Wooden Products, Ltd.
25. Hangzhou Hanje Tec Co., Ltd.
26. Hunchun Forest Wolf Wooden Industry Co., Ltd.
27. Huzhou Chenghang Wood Co., Ltd.
28. Huzhou Fulinmen Imp. & Exp. Co., Ltd.
29. Huzhou Fuma Wood Co., Ltd.<sup>86</sup>
30. Huzhou Jesonwood Co., Ltd.
31. Huzhou Sunergy World Trade Co., Ltd.
32. Jiafeng Wood (Suzhou) Co., Ltd.<sup>87</sup>
33. Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.
34. Jiangsu Simba Flooring Co., Ltd.
35. Jiashan HuiJiaLe Decoration Material Co., Ltd.
36. Jiaxing Hengtong Wood Co., Ltd.

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<sup>86</sup> On July 13, 2015, the Department determined that Zhejiang Fuma Warm Technology Co., Ltd. is the successor-in-interest to Huzhou Fuma Wood Co., Ltd. *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review*, 80 FR 39998 (July 13, 2015). Because Huzhou Fuma Wood Co., Ltd. no longer exists as a legal entity, the rate assigned to Huzhou Fuma Wood Co., Ltd. will apply for assessment purposes only.

<sup>87</sup> On November 16, 2015, the Department determined that Sino-Maple (JiangSu) Co., Ltd. is the successor-in-interest to Jiafeng Wood (Suzhou) Co., Ltd. *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review*, 80 FR 70756 (November 16, 2015). Because Jiafeng Wood (Suzhou) Co., Ltd. no longer exists as a legal entity, the rate assigned to Jiafeng Wood (Suzhou) Co., Ltd.

37. Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.
38. Jilin Xinyuan Wooden Industry Co., Ltd.
39. Karly Wood Product Limited
40. Kemian Wood Industry (Kunshan) Co., Ltd.
41. Linyi Youyou Wood Co. Ltd
42. MuDanJiang Bosen Wood Industry Co., Ltd.
43. Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
44. Nanjing Minglin Wooden Industry Co., Ltd.
45. Ningbo Tianyi Bamboo & Wood Products Co., Ltd.
46. Pinge Timber Manufacturing (Zhejiang) Co., Ltd.
47. Power Dekor Group Co., Ltd.
48. Puli Trading Limited
49. Shanghai Lairunde Wood Co., Ltd.
50. Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Wood Industry Limited Company of Shanghai<sup>88</sup>
51. Shanghai New Sihe Wood Co., Ltd.
52. Shanghai Shenlin Corporation
53. Shenyang Haobainian Wooden Co., Ltd.
54. Shenzhenshi Huanwei Woods Co., Ltd.
55. Sino-Maple (JiangSu) Co., Ltd.
56. Suzhou Dongda Wood Co., Ltd.
57. Xuzhou Shenghe Wood Co., Ltd.
58. Yixing Lion-King Timber Industry Co., Ltd.
59. Zhejiang Biyork Wood Co., Ltd.
60. Zhejiang Dadongwu Green Home Wood Co., Ltd.
61. Zhejiang Fudeli Timber Industry Co., Ltd.
62. Zhejiang Fuma Warm Technology Co., Ltd.
63. Zhejiang Longsen Lumbering Co., Ltd.

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<sup>88</sup> On September 30, 2014, the Department determined that Linyi Youyou Wood Co., Ltd. is the successor-in-interest to Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Wood Industry Limited Company of Shanghai. *See Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review*, 79 FR 58740 (September 30, 2014). Because Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Wood Industry Limited Company of Shanghai no longer exists as a legal entity, the rate assigned to Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Wood Industry Limited Company of Shanghai will apply for assessment purposes only.