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DATE: June 6, 2014

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 New Shipper Review, 2012-2013: Multilayered Wood  
Flooring from the People's Republic of China

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## SUMMARY

In response to a request from interested parties, the Department of Commerce ("Department") is conducting a new shipper review ("NSR") of the antidumping duty order on multilayered wood flooring ("MLWF") from the People's Republic of China ("PRC"). The review covers three exporters of subject merchandise, Dalian Huade Wood Product Co., Ltd ("Huade"), Linyi Bonn Flooring Manufacturing Co., Ltd. ("Bonn Flooring"), and Zhejiang Fuerjia Wooden Co., Ltd. ("Fuerjia"). The period of review ("POR") for Bonn Flooring and Fuerjia is December 1, 2012 through May 31, 2013.<sup>1</sup> The POR for Huade is December 1, 2012, through June 30, 2013. We preliminarily find that Bonn Flooring, Fuerjia and Huade have not made sales of subject merchandise at less than normal value ("NV"). The Petitioner from the underlying investigation is the Coalition for American Hardwood Parity ("CAHP").<sup>2</sup>

## BACKGROUND

On December 8, 2011, the Department published in the *Federal Register* an antidumping duty order on MLWF from the PRC.<sup>3</sup> On June 28, 2013, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(b), the Department received

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<sup>1</sup> See *Multilayered Wood Flooring from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews; 2012-2013*, 78 FR 46318 (July 31, 2013) ("Initiation Notice") for an explanation of the different PORs.

<sup>2</sup> The Coalition for American Hardwood Parity consists of the following domestic producers of the like product: Anderson Hardwood Floors, LLC; From the Forest; Howell Hardwood Flooring; Mannington Mills, Inc.; Nydree Flooring; and Shaw Industries Group, Inc.

<sup>3</sup> See *Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011).



separate timely NSR requests from Bonn Flooring, Fuerjia and Huade (collectively, the “respondents”). The respondents’ requests were made in June 2013, which is the semiannual anniversary month of the *Order*. On July 17, 2013, the Department released U.S. Customs and Border Protection (“CBP”) data for the Harmonized Tariff Schedule of the United States (“HTSUS”) numbers included in the “Scope of the Order” section below. On July 31, 2013, the Department initiated this NSR for the respondents in order to determine whether imports into the United States of MLWF from the PRC are being sold below NV.<sup>4</sup> On July 31, 2013, the Department also issued the antidumping questionnaire to the respondents. On August 1, 2013, the Department obtained from CBP entry documentation regarding MLWF for this review. Between August 28, 2013, and May 21, 2014, we received timely questionnaire responses from the respondents.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1 through October 16, 2013.<sup>5</sup> Thus, all deadlines in this segment of the proceeding have been extended by 16 days. Additionally, on January 15, 2014, the Department extended the time period for issuing the preliminary results of this review by 90 days, until May 7, 2014.<sup>6</sup> Finally, on April 22, 2014, the Department extended the time period for issuing the preliminary results of this review by an additional 30 days, until June 6, 2014.<sup>7</sup>

## **SCOPE OF THE ORDER**

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s). Veneer is referred to as a ply when assembled 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

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<sup>4</sup> See *Multilayered Wood Flooring from the People’s Republic of China: Initiation of Antidumping Duty New Shipper Reviews*; 2012-2013, 78 FR 46318 (July 31, 2013) (“*Initiation Notice*”).

<sup>5</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding “Multilayered Wood Flooring from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review” (January 15, 2014).

<sup>7</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding “Multilayered Wood Flooring from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review” (April 22, 2014).

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 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; 4412.31.6000; 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.

## DISCUSSION OF THE METHODOLOGY

### *Bona Fide Sale Analysis*

For this review, consistent with the Department's practice, the Department investigated the *bona fide* nature of the sale(s) made by the respondents during the POR. In evaluating whether or not a sale in an NSR is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis.<sup>8</sup> Accordingly, the Department considers a number of factors in its *bona fide* sale analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise."<sup>9</sup>

The Department preliminarily finds that the sales of subject merchandise made by the respondents were made on a *bona fide* basis. Specifically, the Department preliminarily finds that: (1) the timings of the sales by themselves do not indicate that the sales might not be *bona fide*; (2) record evidence indicates that the prices and quantities of the sales are commercially reasonable and not atypical of normal business practices of MLWF exporters; (3) the respondents did not incur any extraordinary expenses arising from the transaction; (4) the goods were resold by the respondents' unaffiliated U.S. customer with a profit; and (5) the new shipper sales were made between the respondents and its unaffiliated U.S. customer at arm's length.<sup>10</sup> Therefore, the Department preliminarily finds that the respondents' sales of subject merchandise to the United States were *bona fide* for the purposes of this NSR.

### *Non-Market Economy Country Status*

In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a nonmarket economy ("NME") country shall remain in effect until revoked by the administering authority.<sup>11</sup> As such, the Department continues to treat the PRC as an NME in this proceeding. Accordingly, we calculated normal value ("NV") using the factors of production ("FOP") methodology in accordance with section 773(c) of the Act, which applies to NME countries.

### *Separate Rates*

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate.<sup>12</sup> In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME

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<sup>8</sup> See, e.g., *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005).

<sup>9</sup> See *Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002)).

<sup>10</sup> See company-specific *bona fide* analysis memoranda issued concurrently with this memorandum.

<sup>11</sup> See section 771(18)(C)(i) of the Act.

<sup>12</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

reviews.<sup>13</sup> It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.<sup>14</sup> Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities.<sup>15</sup> The Department analyzes each entity's export independence under a test first articulated in *Sparklers* and as further developed in *Silicon Carbide*.<sup>16</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME") country, then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>17</sup>

### *Separate Rate Recipients*

#### 1. Joint Ventures between Chinese and Foreign Companies

Bonn Flooring and Huade reported that they are joint ventures between Chinese and foreign companies.<sup>18</sup> Record evidence for both Bonn Flooring and Huade describe the companies as a "Sino-foreign joint venture."<sup>19</sup> Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

##### a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses, (2) any legislative enactments decentralizing control of companies, and (3) other formal measures by the government decentralizing control of companies.<sup>20</sup> The evidence provided by Bonn Flooring and Huade supports a preliminary finding of *de jure* absence of government control based on the criteria outlined above.<sup>21</sup>

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<sup>13</sup> See *Initiation Notice*, 78 FR at 46319.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</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*"); see also *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>17</sup> See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

<sup>18</sup> See Letter to the Department from Huade, regarding "Section A Response" (August 28, 2013) at Exhibit A-4; see also Letter to the Department from Bonn Flooring, regarding "Section A Response" (August 28, 2013) at Exhibit A-4.

<sup>19</sup> *Id.*

<sup>20</sup> See *Sparklers*, 56 FR at 20589.

<sup>21</sup> See Huade's Section A response at questions 2(d) through 2(f); see also Bonn Flooring's Section A response at questions 2(d) through 2(f).

## 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 disposition of profits or financing of losses.<sup>22</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 governmental control, which would preclude the Department from assigning the respondents separate rates. The evidence provided by Bonn Flooring and Huade supports a preliminary finding of *de facto* absence of government control based on the criteria outlined above.<sup>23</sup>

As a result of our analysis, the Department preliminarily finds that Bonn Flooring and Huade qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

## 2. Wholly Foreign-Owned Company

Fuerjia reported that it is wholly foreign-owned by individuals and/or companies located in ME countries.<sup>24</sup> Moreover, the Department has no record evidence indicating that Fuerjia 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 Fuerjia is independent from government control. Therefore, the Department preliminarily grants a separate rate to Fuerjia, a wholly foreign owned company.

### *Surrogate Country*

When the Department is investigating 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 (“FOP”). The Act further instructs that valuation of the FOP shall be based on the best available information from a surrogate ME country or countries considered to be appropriate by the Department.<sup>25</sup> When valuing the 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>26</sup> Once the Department has identified the countries that are economically comparable to the PRC and identifies those countries which are significant producers, the Department will select a primary surrogate country based upon whether the data

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<sup>22</sup> See *Silicon Carbide*, 59 FR at 22587; 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>23</sup> See Huade’s Section A response at questions 2(a)(iii)-(v), 2(b)-(c), and 2(g)-(q); see also Bonn Flooring’s Section A response at questions 2(a)(iii)-(v), 2(b)-(c), and 2(g)-(q).

<sup>24</sup> See Letter to the Department from Fuerjia, regarding “Section A response” (August 28, 2013) at question 2(a).

<sup>25</sup> See section 773(c)(1) of the Act.

<sup>26</sup> See section 773(c)(4) of the Act.

for valuing FOPs are both available and reliable. Further, the Department normally values all FOPs in a single surrogate country.<sup>27</sup>

In examining which country to select as its primary surrogate country for this proceeding, the Department first determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries comparable to the PRC in terms of economic development.<sup>28</sup> On January 9, 2014, the Department invited parties to comment on surrogate country selection and provide information regarding valuing FOPs.<sup>29</sup> On January 23, 2014, Bonn Flooring, Fuerjia and Huade filed surrogate country comments. Bonn Flooring stated that the Department should choose the Philippines as the surrogate country because: 1) it is at a similar level of economic development to the PRC, 2) is a significant producer of both identical and comparable merchandise and 3) has reliable data from which to value Bonn Flooring's factors of production.<sup>30</sup> Fuerjia and Huade noted that the Philippines was used by the Department in the first administrative review of MLWF from the PRC and that the Department should continue to do so.<sup>31</sup> No party filed rebuttal surrogate country comments. On January 23, 2014, the Department received information to value FOPs from Fuerjia and Huade.<sup>32</sup> On February 6, 2014, the Department received information to value FOPs from Bonn Flooring and CAHP.<sup>33</sup> On February 14, 2014, the Department received rebuttal surrogate value ("SV") comments from CAHP.<sup>34</sup>

### *Economic Comparability*

As explained in our Policy Memorandum, the Department considers Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand all comparable to the PRC in terms of economic development.<sup>35</sup> Therefore, we consider all six countries as having satisfied this prong of the surrogate country selection criteria.<sup>36</sup>

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<sup>27</sup> See 19 CFR 351.408(c)(2).

<sup>28</sup> See Memorandum from Carole Showers, Director, Office of Policy, to Robert Bolling, Program Manager, Office 4, AD/CVD Operations "Request for a List of Surrogate Countries for a New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China" (December 19, 2013) ("Policy Memorandum").

<sup>29</sup> See the Department's Letter to All Interested Parties, "2012-2013 Antidumping Duty New Shipper Review for Multilayered Wood Flooring from the People's Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information," dated January 9, 2014.

<sup>30</sup> See Letter to the Department from Bonn Flooring, regarding "Surrogate Country Comments" January 23, 2014.

<sup>31</sup> See Letters to the Department from Fuerjia and Huade, regarding "Multilayered Wood Flooring from China" January 23, 2014.

<sup>32</sup> *Id.*

<sup>33</sup> See Letter to the Department from CAHP, regarding "Multilayered Wood Flooring from the People's Republic of China" February 6, 2014; *see also* Letter to the Department from Bonn Flooring, regarding "Surrogate Value Submission" February 6, 2014.

<sup>34</sup> See Letter to the Department from CAHP, regarding "Multilayered Wood Flooring from the People's Republic of China" February 14, 2014.

<sup>35</sup> See Policy Memorandum.

<sup>36</sup> See section 773(c)(4)(A) of the Act.

### *Significant Producer of 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 merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin 04.1 for guidance on defining comparable merchandise.<sup>37</sup> Policy Bulletin 04.1 states that “{t}he terms ‘comparable level of economic development,’ ‘comparable merchandise,’ and ‘significant producer’ are not defined in the statute.” Policy Bulletin 04.1 further states that “{i}n all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.”<sup>38</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>39</sup> 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>40</sup> “In cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this, depends on the subject merchandise.”<sup>41</sup> In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis. However, where there are major inputs, *i.e.*, inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.*, processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.<sup>42</sup>

Contrary to Bonn Flooring's assertion, there is no evidence on the record that any of the countries listed in the Policy Memorandum are producers of identical merchandise. However, based on the information on the record of this review, the Department finds that the Philippines is a significant producer of comparable merchandise.<sup>43</sup> The Philippines produces plywood, which the Department preliminarily determines to be a comparable product because the manufacture of plywood and multilayered wood flooring include many of the same processes such as cutting of veneers, assembly and bonding of veneers and wood sheets, pressing the

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<sup>37</sup> See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (“Policy Bulletin 04.1”), available at <http://ia.ita.doc.gov/policy/index.html>.

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

<sup>39</sup> Policy Bulletin 04.1 also states that “{i}f considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.” See *id.*, at n. 6.

<sup>40</sup> See *Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 65674 (December 15, 1997), and accompanying Issues and Decision Memorandum at Comment 1 (“to 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>41</sup> See Policy Bulletin 04.1.

<sup>42</sup> See *id.*

<sup>43</sup> See Letters to the Department from Fuerjia and Huade, regarding “Multilayered Wood Flooring from China” January 23, 2014; see also Letter to the Department from CAHP, regarding “Multilayered Wood Flooring from the People's Republic of China” February 6, 2014; see also Letter to the Department from Bonn Flooring, regarding “Surrogate Value Submission” February 6, 2014; see also Letter to the Department from CAHP, regarding “Multilayered Wood Flooring from the People's Republic of China” February 14, 2014; see also Letter to the Department from Bonn Flooring, regarding “Factual Information Submission” April 7, 2014 (“SV Submissions”).

sheets and/or veneers with glue into multi-layered boards, and cutting or trimming the boards.<sup>44</sup> The Department preliminarily determines that the Philippines is a significant producer of plywood because of evidence placed on the record by interested parties.<sup>45</sup> Specifically, the 2012 Philippine Forestry Statistics placed on the record by CAHP demonstrate that there are a multitude of plywood plants in the Philippines that produce a significant amount of plywood.<sup>46</sup> Additionally, the financial statements on the record of this review are from Philippine producers of plywood.<sup>47</sup>

#### *Data Availability*

When evaluating 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>48</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>49</sup>

As noted above, Bonn Flooring, Fuerjia, and Huade suggested the Philippines as the primary surrogate country, while Petitioners did not object to any country on the potential surrogate country list. Additionally, consistent with the investigation and the first administrative review, the Department finds the Philippines is at a level of economic comparability to the PRC, is a significant producer of comparable merchandise and has publicly available and reliable data. Moreover, the record indicates that the Philippines has the best available information to value the new shippers' FOPs because of complete SVs and useable financial statements submitted by all parties in this proceeding.<sup>50</sup> Therefore, in accordance with section 773(c)(4) of the Act and 19 CFR 351.408(c)(2), the Department preliminarily determined that the Philippines is primary surrogate country for purposes of this new shipper review.

#### *Date of Sale*

In identifying the date of sale of the subject merchandise, 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 normal course of business." In *Allied Tube*, the Court of International Trade ("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

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<sup>44</sup> See *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decisions Memorandum at Comment 1.

<sup>45</sup> See SV Submissions.

<sup>46</sup> See Letter to the Department from CAHP, regarding "Multilayered Wood Flooring from the People's Republic of China" (February 6, 2014) at Exhibit 3.

<sup>47</sup> See, e.g., *id* at Exhibits 9 and 10; see also Letter to the Department from Bonn Flooring, regarding "Surrogate Value Submission" at Exhibit 6.

<sup>48</sup> See *Policy Bulletin* 04.1

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

<sup>50</sup> See SV Submissions.

terms of sale.’’<sup>51</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>52</sup> This normally includes the price, quantity, delivery terms and payment terms.<sup>53</sup> Consistent with our regulatory presumption for invoice date, the respondents reported that the terms of sale did not change after the invoice date.<sup>54</sup> Accordingly, the Department preliminarily determines to use the invoice date as the date of sale.

### *Fair Value Comparisons*

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1), in order to determine whether the sale of MLWF to the United States by the respondents were made at less than NV, we compared the EP to NV, as described in the “Export Price” and “Normal Value” sections below.

### *Differential Pricing Analysis*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (or constructed export prices) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs to the EP (or constructed export prices) of individual export transactions (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 less-than-fair-value investigations.<sup>55</sup> In recent investigations, the Department applied a “differential pricing” analysis for determining 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>56</sup> The Department finds that the differential pricing analysis used in those recent investigations 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

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<sup>51</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>52</sup> See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090-1092.

<sup>53</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>54</sup> See Bonn Flooring's Section A response (August 28, 2013) at page A-15; see also Fuerjia's Section A response (August 28, 2013) at page 21; see also Huade's Section A response (August 28, 2013) at page 22.

<sup>55</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.

<sup>56</sup> See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Notice of Affirmative Final Determination of Sales at Less Than Fair Value: Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan*, 79 FR 19869 (April 10, 2014).

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 export prices (or constructed export prices) for comparable merchandise that differs 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 codes. Regions are defined using the reported destination code (*i.e.*, zip codes) 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 period of review 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 export price (or constructed export price) 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 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. Then, the Cohen's *d* coefficient is used to evaluate 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, and the sales in the test group were found to pass the Cohen's *d* test, 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 export prices that differ significantly support 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, then 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.

### *Results of the Differential Pricing Analysis*

For each of the respondents, based on the results of the differential pricing analysis, the Department finds that 0.00 percent of export sales pass the Cohen's *d* test, and does not confirm the existence of a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.<sup>57</sup> Accordingly, the Department used the average-to-average method to calculate the weighted-average dumping margin for each of the respondents.

### *U.S. Price*

In accordance with section 772(a) of the Act, EP is the price at which the 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. In accordance with section 772(a) of the Act, we used EP for the U.S. sales of the respondents because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation, and because constructed export price was not otherwise warranted.

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<sup>57</sup> See company specific analysis memoranda, issued concurrently with this memorandum, for the differential pricing analysis results.

We based the EP either on FOB Chinese port prices or on delivered prices to unaffiliated purchasers in the United States, as applicable. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for movement expenses, marine insurance, customs duties, domestic inland freight and market economy brokerage & handling, as applicable.<sup>58</sup>

### *Value Added Tax*

In 2012, the Department announced a change of methodology with respect to the calculation of the EP and CEP to include an adjustment of any un-refunded (herein irrecoverable) VAT in certain non-market economies in accordance with section 772(c)(2)(B) of the Act.<sup>59</sup> In this announcement, the Department stated that when a non-market economy government has imposed 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.<sup>60</sup> In a typical VAT system, companies do not incur any VAT expense; they receive on export a full rebate of the VAT they pay on purchases of inputs used in the production of exports ("input VAT"), and, in the case of domestic sales, the company can credit the VAT they pay on input purchases for those sales against the VAT they collect from customers. That stands in contrast to China's VAT regime, where some portion of the input VAT that a company pays on purchases of inputs used in the production of exports is not refunded.<sup>61</sup> This amounts to a tax, duty or other charge imposed on exports that is not imposed on domestic sales. Where this irrecoverable VAT is a fixed percentage of export price, the Department explained that the final step in arriving at a tax-neutral dumping comparison is to reduce the U.S. export price downward by this same percentage.<sup>62</sup>

The Department's methodology, as explained above and applied in this review, essentially amounts to performing two basic steps: (1) determine the irrecoverable VAT tax on subject merchandise, and (2) reduce U.S. price by the amount determined in step one. Information placed on the record of this review by respondents indicates that, according to the Chinese VAT schedule, the standard VAT levy is 17 percent and the rebate rate for subject merchandise is nine percent.<sup>63</sup> 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>64</sup>

### *Normal Value*

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<sup>58</sup> See company specific analysis memoranda, issued concurrently with this memorandum.

<sup>59</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B)*.

<sup>60</sup> *Id.*; see also *Chlorinated Isocyanurates from the People's Republic of China; 2011-2012: Final Results of Antidumping Duty Administrative Review*, 79 FR 4875 (January 30, 2014) and accompanying Issues and Decision Memorandum at Comment 5.

<sup>61</sup> See, *e.g.*, Fuerjia's September 20, 2013 response at Exhibit C-2; see also Fuerjia's January 15, 2014 response at question 11 and Exhibit SC-3; see also *Methodological Change for Implementation of Section 772(c)(2)(B)* at 36483.

<sup>62</sup> See *Methodological Change for Implementation of Section 772(c)(2)(B)*.

<sup>63</sup> See, *e.g.*, Fuerjia's September 20, 2013 response at Exhibit C-2; see also Fuerjia's January 15, 2014 response at question 11 and Exhibit SC-3.

<sup>64</sup> See *id.*

Section 773(c)(1) of the Act provides that, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the Department finds that the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in a NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. This methodology ensures that the Department's calculations are as accurate as possible.<sup>65</sup>

In accordance with 19 CFR 351.408(c)(1) (2012), the Department will normally use publicly available information to find an appropriate SV to value the FOP, but when a producer sources an input from an ME and pays for it in an ME currency, the Department may value the FOP using the actual price paid for the input.<sup>66</sup> In accordance with our practice outlined in *Antidumping Methodologies: Market Economy Inputs*,<sup>67</sup> when at least 33 percent of an input is sourced from ME suppliers and purchased in an ME currency, the Department will use actual ME purchase prices to value these inputs. Huade was the only respondent to report raw material purchases sourced from and produced by ME suppliers and paid for in an ME currency during the POR for certain inputs.<sup>68</sup> Additionally, at least 33 percent of these certain inputs are sourced from ME suppliers and purchased in ME currency.<sup>69</sup> Huade provided the supporting country of origin certificates associated with these inputs.<sup>70</sup> Therefore, the Department valued these inputs using the ME purchase prices reported by Huade, where appropriate.

Section 773(c) of the Act provides that the Department will value the FOP in NME cases using the best available information regarding the value of such factors in an ME country or countries considered to be appropriate by the administering authority. The Act requires that when valuing the FOP, the Department utilize, to the extent possible, the prices or costs of FOP in one or more ME countries that are: (1) at a comparable level of economic development, and (2) significant producers of comparable merchandise.<sup>71</sup> As stated above, the Department preliminarily determined to select the Philippines as the surrogate country.

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<sup>65</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products From the People's Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079 (September 8, 2006).

<sup>66</sup> See 19 CFR 351.408(c)(1) (2012); see also *Shakeproof Assembly Components, Div. of Ill. Tool Works, Inc. v. United States*, 268 F.3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs). Although the Department modified 19 DFR 351.408(c)(1), the final rule is effective for segments of proceedings initiated on or after September 3, 2013, and does not apply to this case. See 78 FR 46799 (August 2, 2013).

<sup>67</sup> See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61717-19 (October 19, 2006) ("*Antidumping Methodologies: Market Economy Inputs*").

<sup>68</sup> See Letter to the Department from Huade, regarding "Section D response" (September 27, 2013) at IV.A through IV.C and Exhibit D-3; see also Letter to the Department from Huade, regarding "Supplemental questionnaire response" (November 20, 2013) at Exhibits SD-2a through SD-2h.

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

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

<sup>71</sup> See section 773(c)(4) of the Act.

We calculated NV based on FOP in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOP include but are not limited to: (1) hours of labor required, (2) quantities of raw materials employed, (3) amounts of energy and other utilities consumed, and (4) representative capital costs. The respondents reported that all of the subject merchandise that it sold to the United States during the POR was self-produced. The Department used the FOP reported by the respondents for materials, energy, labor, and packing.

### *Factor Valuations*

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP reported by the respondents for the POR. To calculate NV, the Department multiplied the reported per-unit factor consumption quantities by publicly available SVs. In selecting the SVs, the Department considered the quality, specificity, and contemporaneity of the data. The Department adjusted input prices by including freight costs to make them delivered prices, as appropriate. Specifically, the Department added to the Philippine import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997). A detailed description of all SVs used to value the respondents' reported FOP may be found in the Preliminary Results Surrogate Value Memo.<sup>72</sup>

The Department calculated SVs for the majority of reported FOP purchased from NME sources using the contemporaneous, weighted-average unit import value as published by the Philippine National Statistics Office, the official source and primary statistical agency of the Philippine government, published by the Global Trade Atlas ("GTA").<sup>73</sup> More specifically, the Department used GTA Philippine Import Statistics to calculate SVs for raw materials (*e.g.*, paint, adhesive, flour, *etc.*), packing materials (*e.g.*, carton, wooden pallets, wrapping film, *etc.*). GTA Philippine Import Statistics were reported in United States Dollars ("USD") and are contemporaneous with the POR. In selecting the best available information for valuing FOP in accordance with section 773(c)(1) of the Act, 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>74</sup>

Furthermore, with regard to Philippine import-based SVs, in accordance with the Omnibus Trade and Competitiveness Act of 1988 and longstanding agency practice, the Department disregarded

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<sup>72</sup> See Memorandum to the File from Magd Zalok and James Martinelli, International Trade Compliance Analysts, Enforcement & Compliance, Office IV, through Robert Bolling, Program Manager, Enforcement & Compliance, Office IV, regarding "Surrogate Value Memorandum for the Preliminary Results of New Shipper Reviews of Multilayered Wood Flooring from the People's Republic of China" (June 6, 2014) ("Preliminary Results Surrogate Value Memo").

<sup>73</sup> *Id.*

<sup>74</sup> See, *e.g.*, *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 *Notice of 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).

prices that it has reason to believe or suspect may be subsidized.<sup>75</sup> The Department previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we determined that these countries maintain broadly available, non-industry specific, export subsidies.<sup>76</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 has reason to believe or suspect that all exporters from India, Indonesia, South Korea, and Thailand may have benefitted from these subsidies and that we should therefore disregard any data from these countries contained in the Philippine import statistics used to calculate SVs. Consistent with our practice, the Department disregarded prices from NME countries.<sup>77</sup> Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, since the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>78</sup> We are also guided by the statute’s legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized.<sup>79</sup> Rather, this legislative history states that the Department should base its decision on information that is available to it at the time it is making its determination. In accordance with the foregoing, we have not used prices from these countries in calculating the Philippine import-based SVs.

To calculate the labor input, we based our calculation on the methodology expressed by the Department in *Labor Methodologies*,<sup>80</sup> which recommends using single-country labor cost and compensation data from Chapter 6A of the International Labor Organization (“ILO”) Yearbook of Labor Statistics (“Yearbook”).<sup>81</sup> Under Chapter 6A of the ILO data, the labor data cover all paid manufacturing employees, wage earners and salaried employees, of both sexes. Consistent with the recent administrative review of MLWF from the PRC, we relied on the most recent (2008) Philippine labor cost data categorized as “compensation of employees,” that were reported on a monthly basis to calculate a single labor rate.<sup>82</sup>

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<sup>75</sup> See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) (“Omnibus Trade and Competitiveness Act of 1988”) at 590, reprinted in 1988 U.S.C.C.A.N. 1547, 1623-24.

<sup>76</sup> See, e.g., *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; see also *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; see also *Final Affirmative Countervailing Duty Determination: Hot-Rolled Carbon Steel Flat Products From Thailand*, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

<sup>77</sup> See *Sodium Hexametaphosphate From the People’s Republic of China: Preliminary Results of Second Antidumping Duty Administrative Review*, 77 FR 17013 (March 23, 2012), unchanged in *Sodium Hexametaphosphate From the People’s Republic of China: Final Results of Second Antidumping Duty Administrative Review*, 77 FR 59375 (September 27, 2012).

<sup>78</sup> See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008).

<sup>79</sup> See Omnibus Trade and Competitiveness Act of 1988, at 590.

<sup>80</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>81</sup> See Preliminary Results SV Memo at Attachment II.

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

We valued truck freight expenses using average truck rates from the Confederation of Truckers Association of the Philippines, Inc. (“CTAP”) for 92 destinations within the Philippines and the driving distances to these 92 destinations.<sup>83</sup> The CTAP source is the best available information to value truck freight because it is contemporaneous with the POR, represents a broad market average of multiple destinations, is specific to the input being valued, and contains numerous data points by which the Department was able to calculate the SV for truck freight. For those inputs where the respondents reported a unit of measure of M3, we converted the kg/km SV to a M3/km basis in the respondents’ margin program using the appropriate wood density information that the respondents placed on the record.<sup>84</sup>

We valued brokerage and handling using the World Bank’s *2014 Doing Business in the Philippines*.<sup>85</sup> This SV source contains contemporaneous data for brokerage and handling. The brokerage and handling related costs in the World Bank report are for 10 metric tons, which is the weight per 20 foot container in a shipment for which participants in the *Doing Business in the Philippines* survey reported a brokerage and handling cost. Because the data used in *Doing Business in the Philippines* are current (*i.e.*, the data apply to the year 2012), we did not inflate this SV.<sup>86</sup>

To value face veneer, we used the GTA value for HTS 4408.90.1000 from the 2011-2012 administrative review, adjusted for inflation. The value of face veneer adjusted for inflation is US\$219.04 per cubic meter.<sup>87</sup>

To value plywood, we relied on the Philippines Department of Environment and Natural Resources, Forest Management Bureau’s (FMB’s) 2012 price data for lauan plywood, which is contemporaneous with the POR. In doing so, the Department is averaging the prices of 6.35 millimeter (mm) thick and 12.7 mm thick plywood for December of 2012, the only month falling within the POR of the NSR.<sup>88</sup>

We valued electricity using Philippine data from “Doing Business in Camarines Sur,” which are available at the Philippine government’s website for the province.<sup>89</sup> The electricity rates pertain exclusively to industrial consumption, are publicly available, and have been used in past proceedings by the Department.<sup>90</sup> We have not inflated this electricity rate because the website notes “Copyright © 2012” and does not otherwise specify that the electricity data are for a period

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<sup>83</sup> See Prelim SV Memo at Attachment IX.

<sup>84</sup> See company specific analysis memoranda issued concurrently with this memorandum.

<sup>85</sup> See CAHP’S February 6, 2014, SV Submission, at Exhibit 7 and Attachment VI of the Preliminary Results SV Memo.

<sup>86</sup> *Id.*

<sup>87</sup> See Preliminary Results SV Memo.

<sup>88</sup> See FMB domestic plywood prices for 2012 provided in Exhibit 3 of CAHP’s February 6, 2014 submission.

<sup>89</sup> See Letter to the Department from CAHP, regarding “Multilayered Wood Flooring from the People’s Republic of China” (February 6, 2014) at Exhibit 5.

<sup>90</sup> See, *e.g.*, Memorandum to the File, “Antidumping Duty Investigation of Multilayered Wood Flooring from the People’s Republic of China: Surrogate Value Memorandum,” (“*Multilayered Wood Flooring Surrogate Value Memorandum*”) dated May 19, 2011, at Attachment 3, and unchanged in the final determination, *Multilayered Wood Flooring From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum.

other than 2012. The surrogate value the Department used for electricity is 7.8139 PHP per kilowatt-hour.<sup>91</sup>

The Department valued water using price data based on water tariff sources from the following: Mayniland, Manila Water, and the Local Water Utilities Administration (“LWUA”). For Manila Water, we used data for new rates effective from January 1, 2012, which were listed under “New Rate.” Similarly, for Mayniland, we obtained data for new rates effective from January 1, 2012, which were listed under “New Rate.” This source provides water rates for industrial and commercial users, which are identified as Business Group II, that are contemporaneous with the POR. For LWUA data, we used an average of data from January 1, 2013. For Manila Water and Mayniland, we used an average of the Business Group II and included the itemized Environmental and Sewerage charges, but did not include the Maintenance Service Charge because the record does not contain the information necessary to perform this calculation (*i.e.*, the size of the respondents’ water meter). We then averaged the prices from all three sources to calculate one SV. The resulting rate is 67.769 PHP per cubic meter, which is equivalent to 67.769 PHP per metric ton.<sup>92</sup>

According to 19 CFR 351.408(c)(4), the Department is directed to value overhead, selling, general and administrative expenses (“SG&A”), and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. As stated above, we determined to use the Philippines as the primary surrogate country. The record contains seven audited financial statements to value factory overhead, SG&A and profit: 1) Smart Plywood Industries, Inc. (“Smart Plywood”); 2) Philippine Softwood Products, Inc. (“PSP”); 3) Richmond Plywood Corporation (“RPC”); 4) Mega Plywood; 5) Tagum PPMC Wood Veneer, Inc. (“Tagum”); 6) Mount Banahaw Wood Industries, Inc. (“Mount Banahaw”) and 7) Winlex Marketing Corporation (“Winlex”). Bonn Flooring submitted the 2012 financial statements for Mega Plywood and Winlex.<sup>93</sup> Fuerjia and Huade submitted the 2012 financial statements for Smart Plywood.<sup>94</sup> CAHP submitted the 2011 financial statements for RCP and PSP.<sup>95</sup> The Department moved the 2011 financial statements for Tagum and the 2012 financial statements for Mount Banahaw onto the record of this review from the recently completed administrative review of wood flooring from the PRC.<sup>96</sup>

The Department previously rejected the 2012 financial statements for Smart Plywood and Mega Plywood for evidence of non-interest bearing loans from shareholders with no definite call period.<sup>97</sup> Additionally, the Department previously rejected the 2012 financial statements for Winlex due to missing information in Note 9 of the statements.<sup>98</sup>

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<sup>91</sup> See Attachment III of the Preliminary Results SV Memo.

<sup>92</sup> *Id.* at Attachment IV.

<sup>93</sup> See Bonn Flooring’s February 6, 2014 SV submission at Exhibits 6 and 7; *see also* Bonn’s April 7, 2014 submission at Exhibit 3.

<sup>94</sup> See Fuerjia’s January 23, 2014 SV submission at Exhibit 3.

<sup>95</sup> See CAHP’s February 6, 2014 SV submission at Exhibits 9 and 10.

<sup>96</sup> See Preliminary Results SV Memo at Attachment V; *see also See 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) and accompanying Issues and Decisions Memorandum at Comment 2.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

Of the remaining four financial statements on the record, Tagum, PSP, and RPC are not contemporaneous, although they are from producers of comparable merchandise, publicly available, complete, legible and recently used by the Department in the final results of the first administrative review of MLWF from the PRC.<sup>99</sup> Mount Banahaw's financial statements are contemporaneous with the POR.

Because of the differing levels of integration, the Department used different financial statements for Bonn Flooring, Fuerjia and Huade. Specifically, Bonn Flooring reported solely purchasing veneer sheets, whereas, Fuerjia and Huade reported manufacturing veneer sheets from purchased logs or lumber.<sup>100</sup> Of the three financial statements on the record that we used in these preliminary results, the Department previously found that the financial statements of Tagum and RPC show that they are involved in the production of veneer from log sources.<sup>101</sup> There is no evidence that PSP and Mount Banahaw are involved in the production of veneer from log sources.<sup>102</sup>

The Department determines that matching the level of integration is more important than contemporaneity. Therefore, for Fuerjia and Huade, we used RPC and Tagum, neither of which are the most contemporaneous, but are complete, legible, recently used by the Department and match the integration level of the two respondents because they contain evidence of self-produced veneer sheets from purchased logs or lumber.<sup>103</sup> For Bonn Flooring, we used Mount Banahaw's financial statements, which are contemporaneous, complete, legible and matched Bonn's level of integration because they do not contain evidence of self-produced veneer sheets from purchased logs or lumber.<sup>104</sup> We did not use PSP because Mount Banahaw has a comparable integration level to Bonn Flooring and the statements are contemporaneous with the POR.

For a complete listing of all the inputs and a detailed discussion about our SV selections, *see* Preliminary Results SV Memo.

### *Currency Conversion*

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rate in effect on the date of the U.S. sale as certified by the Federal Reserve Bank.

### *Section 777A(f) of the Act*

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<sup>99</sup> *Id.*

<sup>100</sup> *See* company-specific analysis memoranda, issued concurrently with this memorandum.

<sup>101</sup> *See 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) and accompanying Issues and Decisions Memorandum at Comment 2.

<sup>102</sup> *See* Letter to the Department from CAHP, regarding "Multilayered Wood Flooring from the People's Republic of China" (February 6, 2014) at Exhibit 10; *see also* Prelim SV Memo at Attachment VII.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

In applying section 777A(f) of the Act, the Department examined: (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>105</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>106</sup> In conducting this analysis, the Department has not concluded that concurrent application of NME antidumping and countervailing duties 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. Because none of the three respondents claimed an offset for double remedies, the Department is preliminarily not making adjustments pursuant to section 777A(f) of the Act to the antidumping duty cash deposit rate found for the respondents in this NSR.

## RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

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

\_\_\_\_\_  
(Date)

<sup>105</sup> See section 777A(f)(1)(A)-(C) of the Act.

<sup>106</sup> See section 777A(f)(1)-(2) of the Act.