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February 13, 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 2013-2014
Antidumping Duty Administrative Review: Uncovered
Innerspring Units from the People's Republic of China

SUMMARY

The Department of Commerce (“the Department”) is conducting an administrative review of the antidumping duty order on uncovered innerspring units (“innerspring units”) from the People’s Republic of China (“PRC”). The review covers two market economy exporters of subject merchandise: Comfort Coil Technology Sdn Bhd (“Comfort Coil”) and Creative Furniture & Bedding Manufacturing (“Creative Furniture”). The period of review (“POR”) is February 1, 2013, through January 31, 2014. We preliminarily determine that Comfort Coil had no shipments of subject merchandise during the POR. We also preliminarily determine that Creative Furniture did not cooperate to the best of its ability to respond to our requests for information and, therefore, that it is appropriate to apply adverse facts available (“AFA”) to Creative Furniture’s PRC-origin merchandise. As AFA, we are assigning to Creative Furniture the highest rate from any segment of this proceeding, which in this case is 234.51 percent, as established in the investigation. Consistent with our practice, because Creative Furniture is not a PRC exporter, we are not treating Creative Furniture as a part of the PRC-wide entity, but rather are assigning Creative Furniture a rate as a market economy reseller.



BACKGROUND

On February 19, 2009, the Department published in the *Federal Register* an antidumping duty order on innerspring units from the PRC.¹ On February 28, 2014, the Department received a request from Petitioner² to conduct an administrative review of Comfort Coil and Creative Furniture.³ Petitioner believes that these companies either directly, or through affiliated companies, made sales, shipments, and/or exports of subject merchandise to the United States during the POR, and that these sales, shipments, and/or exports of subject merchandise were made either directly from the PRC or through third countries.⁴

On April 1, 2014, the Department published in the *Federal Register* a notice of initiation of this review.⁵ On April 4, 2014, the Department issued antidumping duty questionnaires to Comfort Coil and Creative Furniture.⁶ On April 10, 2014, the Department notified Petitioner that the addresses it provided for Comfort Coil and Creative Furniture were incorrect and requested that Petitioner submit a revised review request with the correct addresses.⁷ On April 11, 2014, the Department delivered the questionnaire to Creative Furniture at the original address provided by Petitioner and stated that Petitioner was not required to submit a revised address for Creative Furniture.⁸ On April 18, 2014, in response to the Department's request, Petitioner provided a corrected address for Comfort Coil.⁹ On April 25, 2014, the Department delivered the questionnaire to Comfort Coil at the revised address provided by Petitioner.¹⁰

On May 8, 2014, Comfort Coil submitted a no sales certification.¹¹ On May 12, 2014, the Department suspended Comfort Coil's deadlines to respond to the Department's questionnaire.¹²

¹ See *Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009) ("Order").

² The petitioner is Leggett & Platt, Inc. (hereinafter referred to as "Petitioner").

³ See Request for Antidumping Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China, dated February 28, 2014.

⁴ *Id.*

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 18262, 18272 (April 1, 2014).

⁶ See Letter to Comfort Coil regarding Uncovered Innerspring Units from the People's Republic of China, dated April 4, 2014, and Letter to Creative Furniture regarding Uncovered Innerspring Units from the People's Republic of China, dated April 4, 2014.

⁷ See Letter to Petitioner, dated April 10, 2014.

⁸ See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement & Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, regarding 2013-2014 Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Documentation to Confirm Receipt of Questionnaire to Creative Furniture & Bedding Manufacturing, dated April 11, 2014. The Department retracted the request for a revised address for Creative Furniture because it received notification of delivery on the day after it submitted the request to Petitioner. *Id.*

⁹ See Administrative Review of the Antidumping Duty Order on Uncovered Innerspring Units from the People's Republic of China, April 18, 2014.

¹⁰ See Memorandum to the File, Scot T. Fullerton, Program Manager, Office V, Enforcement & Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement & Compliance, regarding 2013-2014 Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Documentation to Confirm Receipt of Questionnaire to Comfort Coil Technology Sdn Bhd, dated April 25, 2014.

¹¹ See *Uncovered Innerspring Units from the People's Republic of China: No Sales Certification*, dated May 8, 2014.

On October 3, 2014, the Department partially extended the deadline for the preliminary results by 30 days to December 1, 2014.¹³ On November 5, 2014, the Department partially extended the deadline for the preliminary results by an additional 45 days to January 14, 2015.¹⁴

On November 14, 2014, the Department requested that Comfort Coil clarify the no sales certification that it submitted on May 8, 2014.¹⁵ On November 24, 2014, in response to the Department's request, Comfort Coil clarified its previous no sales certification by stating that it had no sales, exports, or entries of subject merchandise during the period of review.¹⁶ On November 25, 2014, Petitioner requested that the Department seek further clarification from Comfort Coil regarding its no sales certification.¹⁷ On December 2, 2014, Comfort Coil provided these clarifications by submitting a second revised certification.¹⁸ On December 17, 2014, the Department met with Petitioner in response to its request for a meeting.¹⁹ On December 29, 2014, the Department partially extended the deadline for the preliminary results by an additional 30 days to February 13, 2015.²⁰

¹² See Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, Enforcement & Compliance, AD/CVD Operations, Enforcement & Compliance, from Steven Hampton, International Trade Compliance Analyst, AD/CVD Operations, Enforcement & Compliance, regarding 2013-2014 Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Comfort Coil Technology Sdn Bhd's No Sales Certification and Suspension of Questionnaire Deadlines, dated May 12, 2014.

¹³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, regarding Uncovered Innerspring Units from the People's Republic of China: Extension of Deadline for Preliminary Results of the Fifth Antidumping Duty Administrative Review, dated October 3, 2014.

¹⁴ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, regarding Uncovered Innerspring Units from the People's Republic of China: Extension of Deadline for Preliminary Results of the Fifth Antidumping Duty Administrative Review, dated November 5, 2014.

¹⁵ See Letter to Comfort Coil regarding 2013-2014 Administrative Review of Uncovered Innerspring Units from the People's Republic of China: Comfort Coil No Sales Certification, dated November 14, 2014. The Department noted that any statements regarding Comfort Coil's "no sales certification" only appeared in the subject line of the letter it submitted on May 8, 2014. Therefore, the Department requested that Comfort Coil state explicitly that it did not have any exports, sales, or entries of subject merchandise during the period of review any provide certifications to support this statement.

¹⁶ See Uncovered Innerspring Units from the People's Republic of China: No Sales Certifications Clarification, dated November 24, 2014.

¹⁷ See Uncovered Innerspring Units from China: Response to Comfort Coil Technology Sdn Bhd No Sales Certification, dated November 25, 2014.

¹⁸ See Uncovered Innerspring Units from the People's Republic of China: No Sales Certifications Clarifications, dated December 2, 2014 ("Comfort Coil Second Revised Certification").

¹⁹ See Memorandum to the File from Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement Compliance, regarding Uncovered Innerspring Units from the People's Republic of China: Meeting with Petitioner – Leggett and Platt, Inc., dated December 17, 2014.

²⁰ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, regarding Uncovered Innerspring Units from the People's Republic of China: Third Extension of Deadline for Preliminary Results of the Fifth Antidumping Duty Administrative Review, dated December 29, 2014.

SCOPE OF THE ORDER

The merchandise subject to the order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (e.g., twin, twin long, full, full long, queen, California king and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring.

Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a “pocket” or “sock” of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 9404.29.9005, 9404.29.9011, 7326.20.0070, 7320.20.5010, 7320.90.5010, or 7326.20.0071 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

On December 2, 2014, as stated above, Comfort Coil filed a certification indicating that it had no exports of subject merchandise to the United States during the POR.²¹ To corroborate Comfort Coil’s claim, the Department sent an inquiry to U.S. Customs & Border Protection (“CBP”) requesting that CBP inform the Department if it had any information contrary to this no shipment claim. The results of that inquiry did not provide any evidence that contradicts Comfort Coil’s claim. Moreover, no party commented on Comfort Coil’s second revised certification or the results of the CBP inquiry. Based on the certification submitted by Comfort Coil and our analysis of the CBP information, we preliminarily determine that Comfort Coil did not have any reviewable transactions during the POR. The Department finds that consistent with its practice in nonmarket economy (“NME”) cases, it is appropriate not to rescind the review in part in this

²¹ See Comfort Coil Second Revised Certification.

circumstance, but rather to complete the review with respect to Comfort Coil and issue appropriate instructions to CBP based on the final results of the review.²²

Facts Otherwise Available

Section 776(a)(1) of the Tariff Act of 1930, as amended (“the Act”), mandates that the Department use facts otherwise available if necessary information is not available on the record of an antidumping proceeding. In addition, section 776(a)(2) of the Act mandates that the Department use facts otherwise available where an interested party or any other person: (A) withholds information requested by the Department; (B) fails to provide requested information by the requested date or in the form and manner requested; (C) significantly impedes an antidumping proceeding; or (D) provides information that cannot be verified.

As previously noted, Creative Furniture did not respond to the antidumping duty questionnaire issued by the Department on April 4, 2014 and received by Comfort Coil on April 11, 2014.²³ Accordingly, the Department finds that the necessary information is not available on the record of this proceeding. Further, based upon Creative Furniture’s failure to submit responses to the Department’s questionnaire, the Department finds that Creative Furniture withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. Therefore, the Department must rely on the facts otherwise available in order to determine the margin for Creative Furniture.²⁴

Adverse Facts Available

Section 776(b) of the Act states that if the Department “finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority . . . , the administering authority . . . may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.”²⁵ Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”²⁶ In selecting an adverse inference, the Department may rely on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record.²⁷

²² See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

²³ See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement & Compliance, from Steven Hampton, International Trade Compliance Analyst, Office V, regarding 2013-2014 Administrative Review of Uncovered Innerspring Units from the People’s Republic of China: Documentation to Confirm Receipt of Questionnaire to Creative Furniture & Bedding Manufacturing, dated April 11, 2014.

²⁴ See *Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 69546 (December 1, 2006) (“*Cast Iron Pipe Fittings*”), and accompanying Issues and Decision Memorandum at Comment 1.

²⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 at 870 (1994) (“SAA”).

²⁶ *Id.*

²⁷ See section 776(b) of the Act.

As previously stated, Creative Furniture failed to cooperate to the best of its ability in providing the requested information because Creative Furniture withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding. Accordingly, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act and section 776(b) of the Act, we find it appropriate to resort to AFA. By doing so, we ensure that Creative Furniture will not obtain a more favorable result by failing to cooperate than had it cooperated fully in this review. In this respect, we preliminarily determine that we must assign a total AFA margin to Creative Furniture because Creative Furniture failed to respond to the Department's questionnaire.²⁸ Without any information from Creative Furniture, the Department cannot determine which of Creative Furniture's exports to the United States, if any, are non-PRC-origin.

In selecting an AFA rate, the Department's practice has been to assign non-cooperative respondents the highest margin determined for any party in the less than fair value ("LTFV") investigation or in any administrative review.²⁹ However, because Creative Furniture is not a PRC exporter and there is not information on the record that demonstrates Creative Furniture is part of the PRC-wide entity, we do not consider Creative Furniture to be part of the PRC-wide entity. Instead, we are assigning Creative Furniture an individual rate of 234.51 percent based on total AFA, which is the highest rate in this antidumping proceeding assigned to an exporter separate from the PRC-wide entity.³⁰

Corroboration

Section 776(c) of the Act requires that, where the Department relies on secondary information in selecting AFA, the Department corroborate such information to the extent practicable. To be considered corroborated, the Department must find that the information has probative value, meaning that the information must be both reliable and relevant.³¹

The Department considers the AFA rate calculated for the current review as both reliable and relevant. On the issue of reliability, the Department corroborated the AFA rate in the LTFV investigation.³² No information has been presented in the current review that calls into question

²⁸ See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review*, 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007).

²⁹ See, e.g., *Cast Iron Pipe Fittings*, 71 FR at 69548.

³⁰ See *Uncovered Innerspring Units from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 56338 (September 19, 2014).

³¹ See SAA at 870; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

³² See *Uncovered Innerspring Units from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 79443, 79446 (December 29, 2008) ("*Innersprings Final Determination*").

the reliability of this information. With respect to the relevance, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico*, the Department disregarded the highest margin in that case as best information available (the predecessor to AFA) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin.³³ The information used in calculating the AFA margin in this review was based on sales and production data submitted by Petitioner in the LTFV investigation, together with the most appropriate surrogate value information available to the Department chosen from submissions by the parties in the LTFV investigation.³⁴ Finally, there is no information on the record of this review that demonstrates that this rate is not appropriate for use as AFA. In this regard, Creative Furniture has not provided the Department with a response to the questionnaire and, as a result, Creative Furniture has limited the Department's ability to corroborate the AFA rate. For all these reasons, we determine that this rate continues to have relevance with respect to Creative Furniture.

As the 234.51 percent AFA rate is both reliable and relevant, we determine that it has probative value and is corroborated to the extent practicable, in accordance with section 776(c) of the Act. Therefore, we assigned this AFA rate to exports of the subject merchandise (*i.e.*, PRC-origin merchandise) by Creative Furniture. Because Creative Furniture is located in Malaysia, it is a third country reseller. Accordingly, this rate only applies to Creative Furniture's PRC-origin merchandise.

Recommendation

We recommend applying the above methodology for these preliminary results.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date

³³ See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) ("*Fresh Cut Flowers from Mexico*").

³⁴ See *Uncovered Innerspring Units from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 45729, 45735 (August 6, 2008), unchanged in *Innersprings Final Determination*, 73 FR at 79446.