



A-570-970

**Public Document**

NSR: Muyun II

12/1/14-5/31/15

EC/AD/OIV: AN

DATE: May 7, 2019

MEMORANDUM TO: Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance

FROM: Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of Huzhou Muyun Wood Co., Ltd. Antidumping Duty New Shipper Review, 2014-2015: Multilayered Wood Flooring from the People's Republic of China

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## I. SUMMARY

The Department of Commerce (Commerce) determines that Huzhou Muyun Wood Co., Ltd. (Muyun) has not demonstrated its qualification for a separate rate in this new shipper review (NSR) of the antidumping duty order on multilayered wood flooring from the People's Republic of China (China) and is thus considered part of the China-wide entity. As a result of our analysis, we made changes to the antidumping duty rate for Muyun. We received no comments from any interested party.

## II. BACKGROUND

On July 29, 2015 Commerce initiated this NSR for Muyun in order to determine whether imports into the United States of multilayered wood flooring from China are being sold below normal value.<sup>1</sup> On October 26, 2016, Commerce published the final rescission of Muyun's NSR, due to the determination that Muyun's sale was non-*bona fide*.<sup>2</sup> On December 11, 2017, the Court of International Trade (CIT) remanded Commerce's determination, holding that the conclusion that Muyun's sale was non-*bona fide* was not supported by substantial evidence.<sup>3</sup> On March 6, 2018, Commerce released its final results of redetermination pursuant to court order, continuing to find

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<sup>1</sup> See *Multilayered Wood Flooring from the People's Republic of China: Preliminary Rescission of 2014-2015 Antidumping Duty New Shipper Reviews; 2014-2015*, 80 FR 45192 (July 29, 2015).

<sup>2</sup> See *Multilayered Wood Flooring from the People's Republic of China: Rescission of Antidumping Duty New Shipper Reviews; 2014-2015*, 81 FR 74393 (October 26, 2016).

<sup>3</sup> See *Huzhou Muyun Wood Co., Ltd. v. United States*, Court No. 16-00245, Slip Op. 17-162 (December 11, 2017).



that Muyun's sale was non-*bona fide*.<sup>4</sup> On July 16, 2018, the CIT issued a final judgement that Commerce's ultimate conclusion was not supported by substantial evidence, that the rescission of the NSR could not be upheld, and instructed Commerce to proceed with Muyun's NSR.<sup>5</sup> On August 16, 2018 Commerce published its notification to the public that the final judgement in this case is not in harmony with the final rescission.<sup>6</sup>

On October 19, 2018, Commerce notified interested parties that a new segment of the proceeding regarding Muyun's NSR had been created.<sup>7</sup> On November 5, 2018, Commerce released its timeline for the instant proceeding, including the date of verification.<sup>8</sup> On December 21, 2018, Commerce published the *Preliminary Results* in this proceeding.<sup>9</sup>

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.<sup>10</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.

Commerce had scheduled verification of Muyun during the week of January 14, 2019; however, due to the partial federal government shutdown, verification could not take place then and all deadlines were extended by 40 days. On February 25, 2019, Muyun notified Commerce it would not participate in verification.<sup>11</sup>

On March 6, 2019, Commerce released its updated estimated timeline for the proceeding, to take into account the tolling of deadlines and Muyun's non-participation.<sup>12</sup> On April 30, 2019, Commerce extended the final results by one week; the revised deadline for the final results of review is now May 7, 2019.<sup>13</sup>

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<sup>4</sup> See Final Results of Redetermination Pursuant to Court Order in *Huzhou Muyun Wood Co., Ltd v. United States*, Court No. 16-00245, dated March 6, 2018.

<sup>5</sup> See *Huzhou Muyun Wood Co., Ltd. v. United States*, Court No. 16-00245, Slip Op. 18-89 (CIT July 16, 2018).

<sup>6</sup> See *Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Rescission of the Antidumping Duty New Shipper Review*, 83 FR 40748 (August 16, 2018).

<sup>7</sup> See Memorandum, "New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China – APO Access," dated October 19, 2018.

<sup>8</sup> See Memorandum, "New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China- Estimated Timeline," dated November 5, 2018.

<sup>9</sup> See *Multilayered Wood Flooring from the People's Republic of China; Preliminary Results of Antidumping Duty New Shipper Review; 2014-2015*, 83 FR 65628 (September 21, 2018) (*Preliminary Results*).

<sup>10</sup> See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>11</sup> See letter from Muyun, "Multilayered Wood Flooring from the People's Republic of China- Response to Department regarding Verification," dated February 25, 2019 (Muyun Letter).

<sup>12</sup> See Memorandum, "New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China- Estimated Timeline," dated March 6, 2019.

<sup>13</sup> See Memorandum, "New Shipper Review of the Antidumping Duty Order on Multilayered Wood Flooring from the People's Republic of China- Revised Date of Final Results," dated April 30, 2019

### III. SCOPE OF THE ORDER

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)<sup>14</sup> in combination with a core.<sup>15</sup> The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

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

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

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product.

Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

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<sup>14</sup> A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt, or flitch. Veneer is referred to as a ply when assembled.

<sup>15</sup> Commerce Interpretive Note: Commerce interprets this language to refer to wood flooring products with a minimum of three layers

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.

#### IV. DISCUSSION OF THE METHODOLOGY

As stated in the *Initiation Notice*, it is Commerce's policy to assign all exporters of subject merchandise in a non-market economy (NME) country a single NME-wide rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.<sup>16</sup> Exporters can demonstrate this independence through evidence of the absence of both *de jure* and *de facto* governmental control over export activities.<sup>17</sup> Commerce analyzes each entity's export independence under a test first articulated in *Sparklers* and as further developed in *Silicon Carbide*.<sup>18</sup>

In the *Preliminary Results*, Commerce determined that Muyun was eligible for a separate rate, through evidence of absence of both *de jure* and *de facto* government control over export activities, and calculated a 0.00 percent weighted-average dumping margin.<sup>19</sup> However, Muyun subsequently notified Commerce that it would not be participating in Commerce's scheduled verification, rendering Muyun's responses unreliable and unverifiable.<sup>20</sup> Accordingly, we find that Muyun has not demonstrated its qualification for a separate rate in this NSR.

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<sup>16</sup> See *Initiation Notice*, 80 FR 45192; see also 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>.

<sup>17</sup> See *Initiation Notice*, 80 FR 45192.

<sup>18</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>19</sup> See *Preliminary Results*, 83 FR 65628

<sup>20</sup> See Muyun Letter.

As a result, entries from Muyun are subject to the China-wide entity rate. Commerce's change in policy regarding the China-wide entity applies to this review.<sup>21</sup> Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. As the China-wide entity is not under review in this NSR, the China-wide entity's rate is not subject to change. Therefore, entries from Muyun will be liquidated at the rate previously established for the China-wide entity (*i.e.*, 25.62 percent).<sup>22</sup>

## V. RECOMMENDATION

We recommend applying the above methodology for these final new shipper results.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

5/7/2019

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Signed by: CHRISTIAN MARSH

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Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance

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<sup>21</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969-70 (November 4, 2013).

<sup>22</sup> See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 46899 (July 19, 2016).