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Investigation
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December 28, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Wood Mouldings and Millwork Products from the People's
Republic of China: Issues and Decision Memorandum for the
Final Affirmative Determination of Sales at Less Than Fair Value

I. SUMMARY

The Department of Commerce (Commerce) determines that imports of wood mouldings and millwork products (millwork products) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2019, through December 31, 2019.

As a result of our analysis and consideration of comments submitted by interested parties, we have made changes to the *Preliminary Determination*.¹ We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we have received comments from the interested parties:

- Comment 1: Whether to Continue to Grant Yinfeng/Mangrove² a Separate Rate
- Comment 2: Whether to Continue to Deny Wuxi Boda³ a Separate Rate
- Comment 3: Primary Surrogate Country Selection
- Comment 4: Surrogate Value Selection for Laminated Veneer Lumber/Plywood/Tray
Material Inputs
- Comment 5: Domestic Subsidy Offset

¹ See *Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 48669 (August 12, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (*Preliminary Determination PDM*).

² The full names of these companies are Fujian Yinfeng Imp & Exp Trading Co., Ltd. (Yinfeng) and Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. (Mangrove). We have collapsed Yinfeng and Mangrove for purposes of this investigation. For further discussion, see *Preliminary Determination PDM*.

³ The full name of this company is Wuxi Boda Bamboo & Wood Industrial Co., Ltd. (Wuxi Boda).



II. BACKGROUND

On August 12, 2020, Commerce published its *Preliminary Determination* in the antidumping duty (AD) investigation of millwork products from China.⁴ We invited interested parties to comment on the *Preliminary Determination*.

On August 24, 2020, we issued a supplemental questionnaire to Bel Trade Wood Industrial Co., Ltd. Youxi Fujian (Bel Trade) requesting specific information with respect to certain data reported by this company on which we relied in the *Preliminary Determination*.⁵ On October 19, 2020, we rejected Bel Trade's September 10, 2020, response to this supplemental questionnaire and removed it from the record of this proceeding on the grounds that it provided unsolicited new U.S. sales and factors of production (FOP) databases such that it constituted an entirely new questionnaire response.⁶ Bel Trade subsequently requested reconsideration of this decision,⁷ and Commerce met separately with counsels for both Bel Trade and the petitioner, at the latter's request, concerning Bel Trade's reconsideration request.⁸ After careful consideration of this request, Commerce informed Bel Trade that it would not reconsider the decision to reject its September 10, 2020 supplemental questionnaire response.⁹

On November 3, 2020, the following interested parties submitted case briefs: Bel Trade, Yinfeng, Wuxi Boda, and the petitioner.¹⁰ On November 10, 2020, Yinfeng and the petitioner submitted rebuttal briefs.¹¹ On December 10, 2020, Commerce held a public hearing in this investigation.

⁴ See *Preliminary Determination* at 85 FR 48669 and accompanying *Preliminary Determination* PDM.

⁵ See Commerce's Letter, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Bel Trade's Third Supplemental Questionnaire," dated August 24, 2020 (August 24, 2020 supplemental questionnaire).

⁶ See Commerce's Letter, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Rejection of September 10, 2020 Supplemental Questionnaire Response Filed by Bel Trade Wood Industrial Co., Ltd. Youxi Fujian (Bel Trade)," dated October 19, 2020.

⁷ See Bel Trade's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Bel Trade October 27, 2020 Letter – REDACTED Per the Department's Letter Dated November 19, 2020," dated November 23, 2020.

⁸ See Memorandum, "Less-than-Fair-Value Investigation of Wood Mouldings and Millwork Products from the People's Republic of China – *Ex Parte* Memorandum," dated November 5, 2020; see also Memorandum, "Less-than-Fair-Value Investigation of Wood Mouldings and Millwork Products from the People's Republic of China – *Ex Parte* Memorandum," dated November 17, 2020.

⁹ See Commerce's Letter, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Response to Request for Reconsideration by Bel Trade Wood Industrial Co., Ltd. Youxi Fujian (Bel Trade)," dated December 3, 2020.

¹⁰ See Bel Trade/Yinfeng's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Common Issue Brief," dated November 3, 2020 (Respondents' Common Issues Case Brief); see also Wuxi Boda's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Case Brief," dated November 3, 2020; and Petitioner's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Case Brief," dated November 3, 2020 (Petitioner's Case Brief);

¹¹ See Yinfeng's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Yinfeng Rebuttal Brief," dated November 10, 2020; see also Petitioner's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Resubmission of Petitioner's Rebuttal Brief," dated December 3, 2020 (Petitioner's Rebuttal Brief).

III. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE

Section 776(a)(1) and (2) of the Act provides that, if necessary information is missing from the record, or if an interested party: (A) withholds information that has been requested by Commerce; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, Commerce shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority if: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.¹²

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the petition) rather than information obtained in the course of an investigation or review, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.¹³ The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value, however, section 776(c)(2) of the Act provides that Commerce is not required to corroborate any

¹² See 19 CFR 351.308(c).

¹³ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 870.

dumping margin applied in a separate segment of the same proceeding.¹⁴ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.¹⁵

Under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins.¹⁶ Section 776(d) also provides that when selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.¹⁷

1. Application of Facts Available

Bel Trade

In the *Preliminary Determination*, we relied on the U.S. sales and FOP databases Bel Trade submitted in response¹⁸ to our initial and supplemental questionnaires.¹⁹

After the *Preliminary Determination*, Bel Trade attempted to submit U.S. and FOP databases containing substantial unsolicited new factual information in its September 10, 2020 supplemental questionnaire response which was not responsive to our August 24, 2020, supplemental questionnaire²⁰ and was subsequently rejected. This new factual information consisted of revisions to previously submitted data that were so extensive as to constitute, in effect, a new questionnaire response containing new and unsolicited databases. Although a respondent is allowed to correct previously submitted data under certain circumstances, when those alleged corrections are so substantial as to constitute entirely new (and untimely)

¹⁴ *Id.*; see also 19 CFR 351.308(d).

¹⁵ See, e.g., *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).

¹⁶ See section 776(d)(1)-(2) of the Act.

¹⁷ See section 776(d)(3) of the Act.

¹⁸ See Bel Trade’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Bel Trade’s Supplemental Section D Questionnaire Response,” dated July 6, 2020 at Exhibit SD-Q36; see also Bel Trade’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Bel Trade’s Supplemental Sections A & C Questionnaire Response,” dated June 30, 2020 at Exhibit SC-1.

¹⁹ See Commerce’s Letter, “Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People’s Republic of China: Section D Supplemental Questionnaire,” dated June 12, 2020; see also Commerce’s Letter, “Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People’s Republic of China: Sections A and C Supplemental Questionnaire,” dated June 3, 2020; and Commerce’s Letter (untitled) serving the initial questionnaire, dated March 8, 2020.

²⁰ Our August 24, 2020 supplemental questionnaire requested, among other things, recalculation of specific movement expense variables using quantity-based, rather than value-based, allocation ratios, certain follow-up items identified by the petitioner (e.g., financial statements, additional market-economy purchase documentation) and a packing material conversion factor.

submissions or databases, as in this case, Commerce will not consider them.²¹ Such unsolicited and extensive corrections call into question all of the data submitted by the respondent during the proceeding.

By submitting such unsolicited extensive corrections to its questionnaire response, including revised quantities and prices for almost all of its U.S. sales transactions, Bel Trade recognized that its originally reported data were inaccurate based on its records. Had Bel Trade put forth its “maximum effort,” the corrected information would have been provided in a timely manner. Doing so here required no “clairvoyance” on the part of Bel Trade—just that it act to the best of its ability in being familiar with the records “maintain {ed} in its possession, custody, or control.”²² Here, Bel Trade’s actions in providing incorrect data have called into question the reliability of the data it submitted throughout this investigation.

Our letters to Bel Trade on October 19 and December 3, 2020²³ detail the extensive unsolicited new factual information contained in Bel Trade’s September 10, 2020 supplemental questionnaire response. Specifically, the new factual information sought to revise, among other things, critical items such as the quantities and prices of almost all of Bel Trade’s U.S. sales transactions reported in the U.S. sales database relied upon in the *Preliminary Determination* and the data for seven material inputs (*i.e.*, four glue inputs, paint, calcium carbonate, and fine wood powder) affecting all products (for the glue and paint inputs) or almost all products (for the calcium carbonate and fine wood powder inputs) reported in the FOP database relied upon in the *Preliminary Determination*. Because we find that Bel Trade’s sales and FOP data on the record cannot be relied upon for purposes of calculating an accurate dumping margin, we therefore determine that necessary information is not on this record for margin calculation purposes in accordance with section 776(a)(1) of the Act. Furthermore, Bel Trade failed to provide accurate information in a timely manner, within the meaning of section 776(a)(2)(B) of the Act, and it also significantly impeded the proceeding, within the meaning of section 776(a)(2)(C) of the Act. Accordingly, the use of the facts available is warranted.

2. Use of Adverse Inference

By not providing Commerce with accurate information in its possession to calculate an accurate dumping margin, we find that Bel Trade failed to cooperate by not acting to the best of its ability to comply with our multiple requests for certain information critical for margin calculation purposes. Therefore, we find that an adverse inference is warranted in selecting from the facts otherwise available with respect to Bel Trade, in accordance with section 776(b) of the Act and 19 CFR 351.308(a). Moreover, because we find that Bel Trade’s submitted information is unreliable for purposes of this final determination, Bel Trade is also no longer eligible for a

²¹ See *Severstal Export GmbH v. United States*, 374 F. Supp. 3d 1368 (Ct. Int’l Trade 2019) (affirming Commerce’s rejection of a supplemental response that contained extensive corrections to previously submitted data and affirming Commerce’s application of adverse inferences as a result); *China Steel Corp. v. United States*, 393 F. Supp. 3d 1322 (Ct. Int’l Trade 2019) (affirming Commerce’s rejection of unsolicited changes to a cost database).

²² See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003); *Changzhou Trina Solar Energy Co. v. United States*, 195 F. Supp. 3d 1334, 1346 (Ct. Int’l Trade 2016).

²³ See October 19, 2020 letter at Attachment; see also December 3, 2020 letter at 1-2.

separate rate and is considered part of the China-wide entity in accordance with Commerce practice.²⁴

As noted in the *Preliminary Determination*, we also find that the China-wide entity did not act to the best of its ability to comply with our request for quantity and value data and, therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to the China-wide entity, in accordance with section 776(b) of the Act and 19 CFR 351.308(a).

IV. CHINA-WIDE RATE

In the *Preliminary Determination*, because the China-wide entity did not respond to Commerce's requests for information, we found that it failed to provide necessary information, withheld information requested by Commerce, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information.²⁵ Therefore, we preliminarily assigned a China-wide rate based on facts available, pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act, applying an adverse inference, pursuant to 776(b) of the Act.

No parties commented on these preliminary findings with respect to the China-wide entity, and as there is no basis to reconsider our determination, we continue to find that the China-wide entity failed to cooperate to the best of its ability in responding to Commerce's requests for information. Therefore, for the final determination, we continue to apply AFA in determining the weighted-average margin for the China-wide entity (including Bel Trade and Wuxi Boda)²⁶.

In selecting the AFA rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.²⁷ Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or (b) the highest calculated dumping margin of any respondent in the investigation.²⁸

In the *Preliminary Determination*, Commerce used the highest petition rate as the AFA rate for the China-wide entity.²⁹ Section 776(c) of the Act provides that, when Commerce relies on secondary information, such as the LTFV petition, in making an adverse inference rather than information obtained in the course of an investigation, it must corroborate to the extent

²⁴ See *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances, in Part*, 79 FR 53169 (September 8, 2014), and accompanying PDM at 10-14 (*CASWR Preliminary Determination PDM*), unchanged in *Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 79 FR 68860 (November 19, 2014) (*CASWR Final Determination*).

²⁵ See *Preliminary Determination PDM* at 17-18.

²⁶ For further discussion of Wuxi Boda, see Comment 2.

²⁷ See SAA at 870.

²⁸ See, e.g., *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum (IDM).

²⁹ See *Preliminary Determination PDM* at 20.

practicable that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.³⁰ The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information used has probative value.³¹ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information upon which it is basing the AFA dumping margin, although Commerce is not required to estimate what the dumping margin of an uncooperative interested party would have been if the interested party failing to cooperate had cooperated or to demonstrate that the AFA dumping margin used for the uncooperative party reflects an “alleged commercial reality” of the party.³² Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of an antidumping proceeding when applying an adverse inference, including the highest of such margins.³³ If Commerce is unable to corroborate the highest petition margin using individual transaction-specific margins, Commerce may use the component approach.³⁴

In attempting to corroborate the highest petition margin (*i.e.*, 359.16 percent)³⁵ for the final determination, we compared this rate to Yinfeng’s highest transaction-specific dumping margins and found the highest petition rate was not within the range of the highest calculated transaction-specific dumping margins. Next, we attempted to corroborate the highest petition rate using the component methodology, but were unable to do so due to conversion issues. Thus, because we were unable to corroborate the highest petition margin, we are using as the AFA rate the highest transaction-specific dumping margin on the record calculated for the cooperative mandatory respondent Yinfeng/Mangrove.³⁶ This margin is 230.36 percent, and, because it is not secondary information, it does not need to be corroborated. We are applying this rate to the China-wide entity (including Wuxi Boda and Bel Trade) in the final determination in accordance with our practice.³⁷

³⁰ See SAA at 870.

³¹ *Id.*; see also 19 CFR 351.308(d).

³² See section 776(d)(3) of the Act; see also *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).

³³ See sections 776(d)(1)-(2) of the Act.

³⁴ See *Polyester Textured Yarn from India: Final Determination of Sales at Less Than Fair Value*, 84 FR 63843 (November 19, 2019), and accompanying IDM at Comment 7.

³⁵ See Petitioner’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Responses to First Supplemental Questions on China AD Volume III of the Petition,” dated January 16, 2020 (AD Supplement) at Exhibit III-Supp-2; see also Petitioner’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Responses to First Supplemental Questions on China AD Volume III of the Petition,” dated January 22, 2020 (Second AD Supplement) at Exhibit III-Supp2-5; and Memorandum, “Wood Mouldings and Millwork Products from the People’s Republic of China: Initiation Checklist,” dated January 28, 2020 at 13.

³⁶ See Memorandum, “Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People’s Republic of China: Final China-Wide Entity Rate,” dated concurrently with this memorandum.

³⁷ See, e.g., *Final Determination of Sales at Less Than Fair Value: Prestressed Concrete Steel Rail Tie Wire from*

V. SEPARATE RATES

Commerce preliminarily determined that 43 companies are eligible for separate rates.³⁸ Included in these 43 companies is Yinfeng, for which we received comments on its separate rate eligibility for consideration in the final determination. After careful consideration of these comments, we continue to find that Yinfeng is eligible for a separate rate (*see* Comment 1 below for further discussion). Also included in these 43 companies was Bel Trade, which, as noted above, is no longer eligible for a separate rate. As no party commented on our preliminary separate rate findings with respect to the other 41 companies, there is no basis to reconsider our preliminary findings with respect to these companies, and we continue to grant them a separate rate in this final determination.

Lanzhou Xinyoulian³⁹

In the *Preliminary Determination*, we denied a separate rate to Lanzhou Xinyoulian because of discrepant information on the record with respect to its claim that it conducted its price negotiations independent of government control.⁴⁰ The information the company submitted in its

the People's Republic of China, 79 FR 25572 (May 5, 2014), and accompanying IDM at 4; and *Determination of Sales at Less Than Fair Value: Silica Bricks and Shapes from the People's Republic of China*, 78 FR 70918, 70919 (November 27, 2013), unchanged from *Silica Bricks and Shapes from the People's Republic of China: Preliminary Determination of Antidumping Duty Investigation and Postponement of Final Determination*, 78 FR 37203 (June 20, 2013), and accompanying Preliminary Decision Memorandum at Comment 3.

³⁸ These companies are: (1) Anji Golden Elephant Bamboo Wooden Industry Co., Ltd.; 2) Anji Huaxin Bamboo & Wood Products Co., Ltd.; 3) Bel Trade Wood Industrial Co., Ltd. Youxi Fujian; 4) Cao County Hengda Wood Products Co., Ltd.; 5) Evermark (Yantai) Co., Ltd.; 6) Fujian Hongjia Craft Products Co., Ltd.; 7) Fujian Jinquan Trade Co., Ltd.; 8) Fujian Nanping Yuanqiao Wood-Industry Co., Ltd.; 9) Fujian Province Youxi County Chang Sheng Wood Machining Co., Ltd.; 10) Fujian Sanming City Donglai Wood Co., Ltd.; 11) Fujian Shunchang Shengsheng Wood Industry Limited Company; 12) Fujian Wangbin Decorative Material Co., Ltd.; 13) Fujian Yinfeng Imp & Exp Trading Co., Ltd./ Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.; 14) Fujian Youxi Best Arts & Crafts Co., Ltd.; 15) Fujian Zhangping Kimura Forestry Products Co., Ltd.; 16) Heze Huasheng Wooden Co., Ltd.; 17) Huaan Longda Wood Industry Co., Ltd.; 18) Jiangsu Chen Sheng Forestry Development Co., Ltd.; 19) Jiangsu Wenfeng Wood Co., Ltd.; 20) Lianyungang Tianke New Energy Technology Co., Ltd.; 21) Longquan Jiefeng Trade Co., Ltd.; 22) Nanping Huatai Wood & Bamboo Co., Ltd.; 23) Nanping Qiangmei Import and Export Co., Ltd.; 24) Oppein Home Group Inc.; 25) Putian Yihong Wood Industry Co., Ltd.; 26) Qimen Jianxing Bamboo and Wood Goods Co., Ltd.; 27) Qingdao Sanhe Dacheng International Trade Co., Ltd.; 28) Rizhao Duli Trade Co., Ltd.; 29) Rizhao Guantong Woodworking Co., Ltd.; 30) Sanming Lingtong Trading Co., Ltd.; 31) Shandong Miting Household Co., Ltd.; 32) Shaxian Hengtong Wood Industry Co., Ltd.; 33) Shaxian Shiyiwood., Ltd.; 34) Shuyang Kevin International Co., Ltd.; 35) Suqian Sulu Import & Export Trading Co., Ltd.; 36) The Ancientree Cabinet Co., Ltd.; 37) Xiamen Jinxi Building Material Co., Ltd.; 38) Xuzhou Goodwill Resource Co., Ltd.; 39) Xuzhou Hexi Wood Co., Ltd.; 40) Zhangping San Chuan Industrial & Trade Co., Ltd.; 41) Zhangzhou Green Wood Industry and Trade Co., Ltd.; 42) Zhangzhou Wangjiamei Industry and Trade Co., Ltd.; and 43) Zhangzhou Yihong Industrial Co., Ltd.

³⁹ The full name of this company is Lanzhou Xinyoulian Co., Ltd. (Lanzhou Xinyoulian).

⁴⁰ *See* Memorandum, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Separate Rate Determination for Lanzhou Xinyoulian Industrial Co., Ltd.," dated August 5, 2020.

response⁴¹ to Commerce’s second separate rate application (SRA) supplemental questionnaire⁴² confirms an absence of *de jure* and *de facto* government control under Commerce’s separate rates criteria discussed below.

In proceedings involving non-market economy (NME) countries, Commerce maintains a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assessed a single weighted-average dumping margin.⁴³

Commerce’s policy is to assign all exporters of subject merchandise that are in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.⁴⁴ Commerce analyzes whether each entity exporting the subject merchandise is sufficiently independent under a test established in *Sparklers*⁴⁵ and further developed in *Silicon Carbide*.⁴⁶ According to this separate rate test, Commerce will assign a separate rate in NME proceedings if a respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities.

Commerce continues to evaluate its practice with regard to the separate rate analysis in light of the diamond sawblades from China AD proceeding, and its determinations therein.⁴⁷ In particular, in litigation involving the diamond sawblades from China proceeding (Diamond Sawblades), the Court of International Trade (CIT) found Commerce’s existing separate rate analysis deficient in light of the circumstances of that case, in which a government-owned and controlled entity exercised control over the respondent exporter.⁴⁸ Following the CIT’s

⁴¹ See Lanzhou Xinyoulian’s Letter, “Wood Mouldings and Millwork Products from China; A-570-117; Resubmission of Second Supplemental Questionnaire Response,” dated September 21, 2020 (September 21, 2020, Second SRA Supplemental Questionnaire Response).

⁴² See Commerce’s Letter, “Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People’s Republic of China: Separate Rate Application Second Supplemental Questionnaire,” dated September 4, 2020.

⁴³ See, e.g., *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, 55040 (September 24, 2008).

⁴⁴ See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (*Sparklers*).

⁴⁵ *Id.*

⁴⁶ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

⁴⁷ See Final Results of Redetermination pursuant to *Advanced Technology & Materials Co., Ltd., et al. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012) (*Advanced Technology I*), available at <http://enforcement.trade.gov/remands/12-147.pdf>; *aff’d Advanced Technology & Materials Co., Ltd., et al. v. United States*, 938 F. Supp. 2d 1342 (CIT 2013), *aff’d Advanced Technology & Materials Co., Ltd., et al. v. United States*, Case No. 2014-1154 (Fed. Cir. 2014) (*Advanced Technology II*); see also *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013), and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying IDM at Comment 1.

⁴⁸ See, e.g., *Advanced Technology I*, 885 F. Supp. 2d at 1351 (“Further substantial evidence of record does not support the inference that SASAC’s {state-owned assets supervision and administration commission} ‘management’ of its ‘state-owned assets’ is restricted to the kind of passive-investor *de jure* ‘separation’ that Commerce concludes.”) (footnotes omitted); *id.* at 1355 (“The point here is that ‘governmental control’ in the context of the separate rate test appears to be a fuzzy concept at least to this court, since a ‘degree’ of it can obviously be traced

reasoning, in proceedings since diamond sawblades, we have concluded that where a government entity holds a majority equity ownership, either directly or indirectly, in the respondent exporter, this interest in and of itself means that the government exercises or has the potential to exercise control over the company's operations generally.⁴⁹ This may include control over, for example, the selection of board members and management, key factors in determining whether a company has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, we would expect a majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the company, including the selection of management and the profitability of the company. Accordingly, we have considered the level of government ownership, where necessary.

a. Absence of *De Jure* Control

Commerce considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control over export activities of the companies; and (3) other formal measures by the government decentralizing control over export activities of companies.⁵⁰

Evidence provided by Lanzhou Xinyoulian supports a finding of an absence of *de jure* government control.⁵¹

b. Absence of *De Facto* Control

Typically, Commerce considers four factors in evaluating whether a respondent is subject to *de facto* government control of its export functions: (1) whether the export prices (EPs) or constructed export prices (CEPs) are set by, or are subject to the approval of, a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.⁵² Commerce has determined that an analysis of *de facto* control is critical in determining whether the respondents are, in fact, subject to a degree of government control which would preclude Commerce from assigning separate rates.

The separate rate information provided by Lanzhou Xinyoulian supports a preliminary finding of an absence of *de facto* government control, based on record statements and supporting

from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations, 'including terms, financing, and inputs into finished product for export.');

id. at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

⁴⁹ See *CASWR Preliminary Determination PDM* at 5-9, unchanged in *CASWR Final Determination*.

⁵⁰ See *Sparklers* at 56 FR 20589.

⁵¹ See Lanzhou Xinyoulian's Letter, "Wood Mouldings and Millwork Products from China; A-570-117; Separate Rate Application," dated April 30, 2020 (April 30, 2020 SRA) at 9-13 and Exhibits 3-4.

⁵² See *Silicon Carbide*, 59 FR 22586-87.

documentation showing that this company: (1) sets its own export prices independent of the government and without the approval of a government authority; (2) has the authority to negotiate and sign contracts and other agreements; (3) maintains autonomy from the government in making decisions regarding the selection of management; and (4) retains the proceeds of its respective export sales and makes independent decisions regarding the disposition of profits or financing of losses.⁵³

Therefore, the evidence placed on the record of this investigation by Lanzhou Xinyoulian demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, Commerce is also granting a separate rate to Lanzhou Xinyoulian in the final determination.

Wuxi Boda

Finally, with respect to Wuxi Boda, a company denied a separate rate in the *Preliminary Determination*, we continue to find that this company is not entitled to a separate rate for this final determination (*see* Comment 2 below for further discussion).

VI. ADJUSTMENTS FOR COUNTERAVAILABLE EXPORT SUBSIDIES

In the *Preliminary Determination*, we determined that Bel Trade, Yinfeng/Mangrove, and the non-individually examined separate rate respondents benefitted from export subsidies and adjusted their cash deposit rates for export subsidies.⁵⁴ As there are no changes from the *Preliminary Determination*, and no party commented on these preliminary findings, for the final determination, we continue to make an export subsidy adjustment of 10.73 percent to the cash deposit rates for Yinfeng/Mangrove and the non-individually examined separate rate respondents.⁵⁵ For the China-wide entity, which is receiving an AFA rate in the final determination, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, Commerce has adjusted the AD cash deposit rate for the China-wide entity (which includes Bel Trade and Wuxi Boda) by the only export subsidy rate determined for any party in the companion countervailing duty (CVD) proceeding, which is 10.73 percent.

VII. CHANGES FROM THE PRELIMINARY DETERMINATION

⁵³ See April 30, 2020 SRA at 13-25 and Exhibits 2 and 4-9; *see also* Lanzhou Xinyoulian's Letter, "Wood Mouldings and Millwork Products from China; A-570-117; Supplemental Questionnaire Response," dated July 2, 2020 at 1-4 and Exhibit S-1; and September 21, 2020, Second SRA Supplemental Questionnaire Response at Exhibit SS-1.

⁵⁴ See *Preliminary Determination* PDM at 32-33.

⁵⁵ See unpublished *Federal Register* notice, "Wood Mouldings and Millwork Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination," dated concurrently with this memorandum, and accompanying IDM at Comment 1.

- We valued Yinfeng/Mangrove’s reported plywood input using import data from Harmonized Tariff Schedule (HTS) subheading 44123300 rather than HTS subheading 44129900,⁵⁶ and revised this company’s margin, accordingly;⁵⁷
- We excluded financial income generated from investments from the calculation of the surrogate SG&A and profit ratios;⁵⁸
- We based the final rate for the China-wide entity and for Bel Trade on adverse facts available (AFA);⁵⁹ and
- We assigned Yinfeng/Mangrove’s final margin to the non-individually examined companies which established their eligibility for a separate rate.

VIII. DISCUSSION OF THE ISSUES

Comment 1: Whether to Deny Yinfeng/Mangrove a Separate Rate

*Petitioner’s Arguments:*⁶⁰

- Commerce should deny Yinfeng/Mangrove a separate rate in the final determination because Yinfeng has failed to show an absence of government control due to its affiliation and relationship with an entity that may be subject to government ownership or control.⁶¹
- The petitioner illustrated in its pre-preliminary comments that Yinfeng/Mangrove is affiliated with an entity that appears to be affiliated with the Government of China (GOC).⁶²
- When investigating merchandise from a country that Commerce considers to be an NME, such as China, the agency employs a rebuttable presumption that the export-related decision-making of all enterprises operating within the NME is controlled by the government.⁶³
- Yinfeng/Mangrove has failed to provide information required to fully assess the extent to which this entity is owned or controlled by the Chinese state and Yinfeng/Mangrove’s claim that it is not controlled by this entity.⁶⁴
- Specifically, although Yinfeng/Mangrove acknowledged its affiliation with this entity, Yinfeng/Mangrove has not fully described its relationship with this entity and provides

⁵⁶ See Comment 4 below; *see also* Memorandum, “Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People’s Republic of China: Final Determination Surrogate Valuation Memorandum,” dated concurrently with this memorandum (Surrogate Value Final Determination Memorandum).

⁵⁷ See Memorandum, “Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People’s Republic of China: Final Determination Margin Calculation for Yinfeng/Mangrove,” dated concurrently with this memorandum; *see also* Surrogate Value Final Determination Memorandum.

⁵⁸ See Surrogate Value Final Determination Memorandum.

⁵⁹ See “Application of Facts Available and Use of Adverse Inference” section above.

⁶⁰ See Petitioner’s Case Brief at 1-10.

⁶¹ *Id.* at 1.

⁶² *Id.* at 1-2 (citing Petitioner’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Pre-Preliminary Comments,” dated July 20, 2020 (Petitioner’s Pre-Prelim Comments) at 16-22).

⁶³ *Id.* at 3 (citing *Yangzhou Bestpak Gifts & Crafts v. United States*, 716 F.3d 1370, 1373 (CAFC 2013)).

⁶⁴ *Id.* at 3-4.

very minimal description or documentation to support the nature of this entity's business.⁶⁵

- Without additional explanation and documentation, it appears likely that this entity is a state-owned or supported entity and the respondent has failed to meet its burden of showing otherwise.⁶⁶
- As detailed in the petitioner's pre-preliminary comments, rural county cooperative institutions often operate under the direction of the Communist Party of China (CPC) or the GOC.⁶⁷ Yinfeng/Mangrove has submitted zero evidence to indicate this particular entity is not state-owned or otherwise controlled by the GOC.⁶⁸
- Yinfeng/Mangrove's relationship with this entity is deeper than mere affiliation based on record evidence provided by both Yinfeng and Mangrove that indicates that they each have a significant business relationship with this entity which they have failed to demonstrate is not controlled by the CPC or the GOC.⁶⁹

*Yinfeng/Mangrove's Rebuttal Arguments:*⁷⁰

- Yinfeng filed sufficient information to demonstrate that it is not subject to government control and operated independently during the POI.⁷¹
- In its initial section A response, Yinfeng reported that it was affiliated with the entity at issue, that it does not share management or supervisors with this entity, and that the affiliation is through indirect shareholdings by Mangrove's sister company.⁷²
- Mangrove, which is only a producer, also provided certain information at Commerce's request, and Commerce also preliminarily found that the company is not subject to government control and operated independently during the POI.⁷³
- The petitioner's argument that Yinfeng and Mangrove have not fully explained their relationship with the alleged government entity is without merit because Yinfeng and Mangrove explained and provided documentation showing that they each have bank accounts with this entity and that is the extent of their relationship.⁷⁴
- The record therefore does not support a finding that Yinfeng/Mangrove's affiliation with this entity is "deeper than affiliation."⁷⁵ The existence of these accounts does not entail

⁶⁵ *Id.* at 5.

⁶⁶ *Id.*

⁶⁷ *Id.* at 6 (citing Petitioner's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Comments on Yinfeng's Section A Initial Questionnaire Response," dated April 21, 2020 at 8-10; and Petitioner's Pre-Prelim Comments at 16-22).

⁶⁸ *Id.* at 6-8.

⁶⁹ *Id.* at 8-10.

⁷⁰ See Yinfeng/Mangrove's Rebuttal Brief at 1-5.

⁷¹ *Id.* at 1.

⁷² *Id.* at 2-4 (citing Yinfeng/Mangrove's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Yinfeng's Section A Questionnaire Response," dated April 7, 2020 (Yinfeng/Mangrove's AQR)).

⁷³ *Id.*

⁷⁴ *Id.* at 2-3.

⁷⁵ *Id.*

greater affiliation, and the documentation on the record demonstrates the relationship between the companies is precisely as reported.⁷⁶

- The petitioner’s allegation relies on one article about the rural banking market in China in general; the article did not conclude that rural county cooperative institutions are owned or controlled by the GOC.⁷⁷
- In fact, the article notes that the GOC changed market-entry requirements in December 2006 to encourage foreign investment and liberalize shareholder requirements for these types of entities. The record demonstrates that the entity at issue was established after December 2006, *i.e.*, after this new policy became effective.⁷⁸
- Yinfeng/Mangrove provided documentation demonstrating that this entity is not owned by the GOC, but rather is a private entity.⁷⁹ There is no record evidence demonstrating that this entity has any involvement with the GOC.⁸⁰

Commerce Position: In response to the initial antidumping duty questionnaire,⁸¹ separate rate application,⁸² and our supplemental section A questionnaire,⁸³ Yinfeng/Mangrove⁸⁴ provided substantial information about its ownership, management, operations, and activities which together address both the *de jure* and *de facto* criteria of Commerce’s separate rate analysis. Specifically, Yinfeng/Mangrove provided a complete ownership chart demonstrating familial and shareholder relationships among all its affiliates, including relevant ownership percentages that support Yinfeng/Mangrove’s statement regarding minority shareholding in the alleged government entity by a minority shareholder of both companies.⁸⁵ Yinfeng/Mangrove also adequately explained that it has bank accounts with this entity, a fact which by itself does not translate into government control. Yinfeng/Mangrove also provided a list of individuals in key management roles for each of its affiliates, business licenses, and where available, articles of association, capital verification reports, and export certificates of approval.⁸⁶ There is no indication in the ample record information with respect to Yinfeng/Mangrove’s ownership, management, operations, and activities that Yinfeng/Mangrove is subject to government control. We, therefore, continue to find, as we did in the *Preliminary Determination*, that Yinfeng/Mangrove has demonstrated separate rate eligibility with respect to both the *de jure* and *de facto* criteria, and continue to grant Yinfeng/Mangrove a separate rate for this final determination.

⁷⁶ *Id.* at 3.

⁷⁷ *Id.* at 4.

⁷⁸ *Id.*

⁷⁹ *Id.* at 4.

⁸⁰ *Id.* at 3.

⁸¹ See Yinfeng/Mangrove’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Yinfeng’s Section A Questionnaire Response,” dated April 7, 2020 (Yinfeng/Mangrove’s AQR).

⁸² See Yinfeng/Mangrove’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Separate Rate Application,” dated March 26, 2020 (Yinfeng/Mangrove’s SRA).

⁸³ See Yinfeng/Mangrove’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Yinfeng’s Supplemental Questionnaire Response-Part 1,” dated June 30, 2020 (Yinfeng/Mangrove’s SQR1); and Yinfeng/Mangrove’s Supplemental Questionnaire Response – Part 2,” dated July 7, 2020 (Yinfeng/Mangrove’s SQR2).

⁸⁴ We have collapsed Yinfeng and Mangrove for purposes of this investigation. See *Preliminary Determination PDM*.

⁸⁵ See Yinfeng/Mangrove’s SRA at Exhibit 11.

⁸⁶ See, e.g., Yinfeng/Mangrove’s SRA and Yinfeng/Mangrove’s SQR1 at Exhibits SQ1-2 – 4.

Comment 2: Whether to Deny Wuxi Boda a Separate Rate

*Wuxi Boda's Arguments:*⁸⁷

- Commerce should grant Wuxi Boda the ability to submit its SRA supplemental questionnaire response (which it missed the deadline to submit) because, as explained to Commerce in letters, Wuxi Boda missed the deadline due to disruption in Wuxi Boda's counsel's normal monitoring and communications protocols caused by the COVID-19 pandemic and closure of counsel's offices.⁸⁸
- Commerce's supplemental questionnaire was posted on ACCESS on June 25, 2020, under the name "Boda" while counsel and paralegal staff were remotely monitoring releases under the company name "Wuxi Boda" which was the name commonly applied to the company.⁸⁹
- While counsel is aware that Commerce does not always identify companies by their full name, and that the company used the short cite "Boda" in its SRA, its initial submission on ACCESS was under the name "Wuxi Boda" which was anticipated to be the name used by Commerce for any subsequent releases to the company.⁹⁰
- Since this missed deadline incident, Wuxi Boda's counsel has implemented specific internal procedures under the current teleworking environment to address this problem.⁹¹
- Commerce is within its discretion to request additional information from Wuxi Boda at any time, as the Secretary may extend any time limit for good cause pursuant to 19 CFR 351.302(b) and has done so in a variety of other cases.⁹²
- Commerce has ample time to review Wuxi Boda's short SRA supplemental questionnaire response prior to the final determination in this investigation and on other occasions made similar exceptions.⁹³
- If Commerce declines to reconsider Wuxi Boda's request to submit its SRA supplemental questionnaire response, Commerce has enough information on the record upon which to grant the company a separate rate and it should not resort to AFA as it did in the *Preliminary Determination*.⁹⁴

*Petitioner's Rebuttal Arguments:*⁹⁵

⁸⁷ See Wuxi Boda's Case Brief at 1-13.

⁸⁸ *Id.* at 2-4 (citing to Letters to Commerce, "Wuxi Boda's Request to Submit Supplemental Questionnaire Response," dated July 23, 2020; "Comments on Preliminary Determination," dated August 12, 2020; and "Request for Meeting," dated September 25, 2020).

⁸⁹ *Id.* at 4

⁹⁰ *Id.*

⁹¹ *Id.* at 4-6.

⁹² *Id.* at 7 (citing *Certain Helical Spring Lock Washers from the People's Republic of China: Final Results of Antidumping Administrative Review*, 75 FR 29720 (May 27, 2010), and accompanying IDM).

⁹³ *Id.* at 7-9.

⁹⁴ *Id.* at 9-13.

⁹⁵ See Petitioner's Rebuttal Brief at 38-44.

- Wuxi Boda did not timely respond to Commerce’s SRA supplemental questionnaire requesting additional information with respect to its separate rate eligibility.⁹⁶
- Commerce correctly found that the circumstances described in Wuxi Boda’s extension request do not qualify as extraordinary circumstances as contemplated in the Department’s regulations.⁹⁷
- Considerations mentioned by Wuxi Boda for granting an extension of time to submit its SRA supplemental questionnaire (*e.g.*, sufficient time remaining in the final determination, *etc.*) are not in any Commerce regulation directing it to take such considerations into account when evaluating an untimely extension request.⁹⁸
- Commerce properly denied Wuxi Boda a separate rate in the *Preliminary Determination* – not as a result of the application of AFA, but because this respondent failed to meet its burden to overcome the presumption of government control.⁹⁹
- Wuxi Boda has failed to demonstrate any reason Commerce should reverse its decision for the final determination in this investigation.¹⁰⁰

Commerce Position:

As stated in our July 28, 2020 letter to Wuxi Boda,¹⁰¹ Commerce’s supplemental questionnaire included the following warning:

If Commerce does not receive either the requested information or a written extension request before 5 p.m. ET on the established deadline, we may conclude that your company has decided not to cooperate in this proceeding. *Commerce will not accept any requested information submitted after the deadline. As required by section 351.302(d) of our regulations, we will reject such submissions as untimely.* Therefore, failure to properly request extensions for all or part of a questionnaire response may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.¹⁰²

Further, 19 CFR 351.302(c) states: “An untimely filed extension request will not be considered unless the party demonstrates that an extraordinary circumstance exists.” The regulation defines “extraordinary circumstance” as “an unexpected event that: (i) Could not have been prevented if reasonable measures had been taken, and (ii) Precludes a party or its representative from timely filing an extension request through all reasonable means.”¹⁰³ As further explained by the preamble to the regulation:

Examples of extraordinary circumstances include a natural disaster, riot, war, *force majeure*, or medical emergency. Examples that are unlikely to be considered

⁹⁶ *Id.* at 39-40.

⁹⁷ *Id.* at 40-41.

⁹⁸ *Id.* at 42-43.

⁹⁹ *Id.* at 44.

¹⁰⁰ *Id.* at 39.

¹⁰¹ See Commerce’s Letter, “Boda’s July 23, 2020 Request to Submit Supplemental Questionnaire Response,” dated July 28, 2020; see also Boda’s June 25, 2020 Separate Rate Application Supplemental Questionnaire.

¹⁰² See Wuxi Boda’s SRA SQ at 2 (emphasis added).

¹⁰³ See 19 CFR 351.302(c)(2).

extraordinary circumstances include insufficient resources, inattentiveness, or the inability of a party's representative to access the Internet on the day on which the submission was due.¹⁰⁴

Wuxi Boda argues that the COVID-19 pandemic created extraordinary circumstances within the meaning of the regulation. While we appreciate that Wuxi Boda has been adversely affected by the current COVID-19 pandemic, its position in this respect is not extraordinary or unique to Wuxi Boda. Thus, the circumstances described do not qualify as extraordinary circumstances as contemplated by the regulation.

Wuxi Boda also argues that “good cause,” within the meaning of 19 CFR 351.302(b), exists for allowing Wuxi Boda to file its supplemental questionnaire response. However, we disagree. To find “good cause” to extend a deadline in a situation like this, in which an interested party simply fails to submit a response because it inattentively overlooked the supplemental questionnaire on ACCESS, would turn both the “good cause” standard and Commerce’s timeliness regulations on their head. Wuxi Boda argues that counsel was “monitoring for postings under the full company name ”Wuxi Boda,” and, therefore, overlooked Commerce’s placement of the supplemental questionnaire on ACCESS. However, we note that: (1) Commerce does not normally identify companies by their full name in the “pertaining to” line on ACCESS; (2) the name under the “pertaining to” line for this questionnaire, “Boda,” is the company’s own short cite as provided in its initial SRA;¹⁰⁵ and, (3) counsel was listed on the APO Service List and therefore properly served with the questionnaire upon its issuance.¹⁰⁶

By failing to respond to Commerce’s supplemental questionnaire, Wuxi Boda failed to rebut the presumption of government control over its export activities. Moreover, because Wuxi Boda withheld information that was requested – namely, the supplemental separate rate questionnaire response – and significantly impeded the proceeding, we find that the use of facts available is warranted, pursuant to sections 776(a)(2)(A) and (C) of the Act. We further find that Wuxi Boda failed to cooperate by not acting to the best of its ability, within the meaning of section 776(b) of the Act. Therefore, the use of adverse inferences is warranted. Accordingly, we determine that Wuxi Boda has not established its eligibility for a separate rate.

Comment 3: Primary Surrogate Country Selection

*Respondents’ Arguments:*¹⁰⁷

- Commerce’s decision not to consider respondents’ July surrogate value (SV) submission (containing Malaysian Global Trade Atlas (GTA) data and financial statements from Malaysian producers of subject merchandise) in its preliminary surrogate country selection was arbitrary, procedurally unfair to the respondents, and not in accordance with Commerce’s practice.¹⁰⁸

¹⁰⁴ *Extension of Time Limits*, 78 FR 57790, 57793 (September 20, 2013).

¹⁰⁵ See Wuxi Boda’s April 6, 2020 Separate Rate Application at 1.

¹⁰⁶ See Commerce’s June 17, 2020 Administrative Protective Order Service List.

¹⁰⁷ See Respondents’ Common Issues Case Brief at 1-27.

¹⁰⁸ *Id.* at 2-3.

- The financial statements respondents submitted for six Malaysian producers of identical merchandise are not only contemporaneous with the POI but are far superior to the financial statements the petitioner submitted for Brazilian producers of comparable merchandise and which Commerce relied on to value the financial ratios in the *Preliminary Determination*.¹⁰⁹
- If Commerce does not find that the financial statements submitted for Malaysian producers of subject merchandise are not preferable to the financial statements the petitioner submitted for Brazilian producers of comparable merchandise, then Commerce must explain in detail why it has accepted or rejected each of them.¹¹⁰
- Unlike the Brazilian GTA data, the Malaysian GTA data are on a cost-of-insurance-and-freight (CIF) basis, and Commerce has expressed a preference to use GTA on that basis for SV purposes in prior NME cases and selected GTA data on a CIF basis over GTA data on a FOB basis in court remand cases involving activated carbon from China.¹¹¹
- For the primary wood inputs and other inputs¹¹² used by the respondents (*e.g.*, pine sawnwood), the Malaysian SVs are the most specific SVs (*i.e.*, HTS subheading numbers ranging from 8-10 digits) and superior to the Brazilian SVs (*i.e.*, six-digit HTS subheading numbers) Commerce relied on in the *Preliminary Determination*.¹¹³
- For specific inputs such as wood scrap/sawdust and bamboo board, the SV data provided from Malaysia have no deficiencies and are the best available information which Commerce must take into account in the final determination.¹¹⁴

*Petitioner's Rebuttal Arguments:*¹¹⁵

- By arguing that Commerce should use Malaysian GTA import data instead of the Brazilian GTA import data, the respondents are simply expressing a preference for a different outcome.¹¹⁶
- The respondents are not claiming that Commerce's selection of Brazil as the primary surrogate country was unreasonable, unsupported by substantial evidence, or contrary to law.¹¹⁷
- In selecting Brazil as the primary surrogate country in this investigation, Commerce selected the strongest data source, and this selection should remain unchanged for the final determination.¹¹⁸

¹⁰⁹ *Id.* at 4-17.

¹¹⁰ *Id.* at 4-5.

¹¹¹ *Id.* at 4 and 22-24 (citing to *Activated Carbon from China Remand Results*, CIT 16-185 (June 17, 2019) at 11 (where Commerce selected Malaysian GTA CIF import data over Philippine GTA FOB import data); and *Activated Carbon from China Remand Results*, CIT 15-286 (June 17, 2019) at 10 (selecting Indonesia in part because its import statistics are on a CIF basis) (collectively referred to as *Activated Carbon*); and *Certain Steel Racks and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 35595 (July 24, 2019), and accompanying IDM at 8-9 (*Steel Racks from China*)).

¹¹² The respondents generally mention labor, truck freight, brokerage and handling fees, acrylic polymer, and various packing materials in this context. *Id.* at 20.

¹¹³ *Id.* at 17-22.

¹¹⁴ *Id.* at 25-27.

¹¹⁵ See Petitioner's Rebuttal Brief at 24-25.

¹¹⁶ *Id.* at 25.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

- While Malaysia and Brazil each have HTS imports of the primary wood inputs, Malaysia does not have any imports of the correct HTS category that covers wood scrap or bamboo board.¹¹⁹
- The raw Brazilian HTS Schedule clearly demonstrates that the Brazilian import data obtained from GTA provide information to the eight, not six, digit level and the HTS descriptions from GTA correspond to the HTS descriptions in the raw Brazilian HTS Schedule.¹²⁰
- Only one of the Malaysian companies for which the respondents submitted financial statements uses the same type of wood the respondents use--any wood other than tropical wood--in the production of subject merchandise.¹²¹

Commerce Position:

We have continued to rely on Brazil, rather than Malaysia, as the primary surrogate country in this investigation for the reasons explained below.

Commerce selects countries as surrogates that are: (1) economically comparable to the country under investigation or review; and (2) significant producers of comparable merchandise, consistent with section 773(c)(4) of the Act. Where more than one country meets these requirements, as in this investigation, Commerce evaluates the potential surrogate countries based on data availability and quality.¹²² The record of this investigation contains SV information for both Brazil and Malaysia. Hence, we next considered the quality of the data on the record for each of these countries. Commerce considers several factors when evaluating data quality including “whether the SVs are publicly available, contemporaneous with the period under consideration, broad-market averages, tax and duty-exclusive, and specific to the inputs being valued.”¹²³

After careful consideration of all the SV data submitted on the record, we find that the Brazilian GTA data are the best available data for valuing the respondent Yinfeng/Mangrove’s FOPs because they are complete, publicly-available, contemporaneous, and specific to each input used by the respondent to produce the subject merchandise during the POI.

First, we do not find the respondents’ argument convincing that the HTS subheadings for the Brazilian GTA data are less specific than those for the Malaysian data because the Brazilian HTS numbers are limited to six digits, while the Malaysian HTS numbers extend to eight digits. Rather, the HTS subheadings for the Brazilian GTA data also extend to eight digits¹²⁴ as

¹¹⁹ *Id.* at 3-8.

¹²⁰ *Id.* at 8-9.

¹²¹ *Id.* at 10-11.

¹²² See *Preliminary Determination PDM* at 8 (which also cites to Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) and section 773(c)(1) of the Act).

¹²³ See, e.g., *Preliminary Determination PDM* at 8.

¹²⁴ See Petitioner’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Surrogate Value Comments,” dated June 17, 2020 (Petitioner’s June 17, 2020 SV Submission) at Exhibit 2; and Petitioner’s Letter, “Wood Mouldings and Millwork Products from the People’s Republic of China: Final Surrogate Value Submission,” dated July 6, 2020 (Petitioner’s July 6, 2020 SV Submission) at Exhibits 1 and 2.

reflected in the petitioner's SV submission. We note that the six-digit HTS subheadings in Commerce's preliminary determination SV spreadsheet¹²⁵ were abbreviated because the seventh and eighth digits were both zero based on the Brazilian HTS information also provided in the petitioner's SV submission. For example, if the Brazilian HTS subheading number reflected in Commerce's SV summary chart was 440711, the actual unabbreviated HTS subheading number was 44071100. Therefore, as the Brazilian HTS subheadings also extend to eight digits, we find them to be just as specific as the Malaysian HTS subheadings in this regard. Moreover, the descriptions for the Brazilian HTS subheading numbers are just as detailed as the descriptions for the Malaysian HTS subheading numbers, at the eight or 10-digit level, whichever appropriate.¹²⁶ For example, for both pine sawnwood and fir sawnwood, the eight-digit Brazilian HTS subheading numbers for these two major inputs clearly note the wood species of each input being also sawn lengthwise, whether or not planned, sanded, or end jointed of a thickness greater than six millimeters.¹²⁷ Similarly, the Malaysian HTS notes the same inputs at the same specificity at the 10-digit level.¹²⁸ In both instances, imports are available for these HTS subheading numbers for each respective country during the POI.¹²⁹

Furthermore, as the petitioner correctly points out, while both the Malaysia and Brazil GTA data show HTS imports of the primary wood inputs (*e.g.*, pine sawnwood and fir sawnwood), the Brazilian GTA data, unlike the Malaysian GTA data, include imports for the particular type of wood scrap that Yinfeng/Mangrove generates from its production process, based on data it placed on the record.¹³⁰ Although the parties differ on the importance of wood scrap in the FOP valuation process, it is clear that valuing this input with import data under the incorrect HTS subheading would result in inaccurately calculating the offset to Yinfeng/Mangrove's normal value calculation.¹³¹

The respondents argue that the Malaysian GTA data are superior to the Brazilian GTA data because the Malaysian GTA data are reported on a CIF basis and thus, already includes

¹²⁵ See Memorandum, "Less-Than-Fair-Value Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Surrogate Values for the Preliminary Determination," dated August 5, 2020 at Attachment 1.

¹²⁶ See Petitioner's June 17, 2020 SV Submission at Exhibit 2; *see also* Respondents' Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Final Surrogate Value Submission," July 6, 2020 (Respondents' July 6, 2020 SV Submission) at Exhibits SV2-1 and SV2-20.

¹²⁷ See Petitioner's June 17, 2020, SV Submission at Exhibit 2.

¹²⁸ See Respondents' July 6, 2020 SV Submission at SV2-21.

¹²⁹ See Petitioner's June 17, 2020 SV Submission at Exhibit 2; *see also* Petitioner's July 6, 2020 SV Submission at Exhibits 1 and 2; and Respondents' July 6, 2020 SV Submission at Exhibit SV2-1.

¹³⁰ See Respondents' July 6, 2020 SV Submission at SV2-2; Memorandum, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Determination Margin Calculation for Yinfeng," dated August 5, 2020 at 2 (which references Yinfeng's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Yinfeng's Supplemental Questionnaire Response – Part II," dated July 6, 2020 (SDQR) at 22-23 and Exhibit SQ1-42; and Yinfeng's Letters, "Wood Mouldings and Millwork Products from the People's Republic of China: Yinfeng's Section D Questionnaire Response," dated April 21, 2020 (DQR) at 15 and Exhibit D-7; and "Wood Mouldings and Millwork Products from the People's Republic of China: Yinfeng's Second Supplemental Questionnaire Response," dated July 28, 2020 at 1-3 and Exhibits SQ2-2 and SQ2-4).

¹³¹ For a further discussion of the other inputs that Yinfeng/Mangrove lists as ones where the Malaysian data are more specific to the Brazilian data for valuation purposes, see Final Surrogate Value Final Determination Memorandum.

insurance and freight, whereas the Brazilian GTA data are reported on a FOB basis, which requires Commerce to add amounts for marine insurance and ocean freight in order to put the Brazilian data on a CIF basis. Although import data from GTA are Commerce's preferred source because such data have been used in prior cases involving NME countries and provide broad-market average prices,¹³² it is not Commerce's normal practice to select the surrogate country based solely on the difference in delivery terms between two GTA country data sets and we find no reason to do so in this case. In fact, Commerce has addressed this issue in multiple cases noting that CIF import data are not necessarily superior to FOB import data, and limiting potential surrogate countries to those with CIF import data unreasonably limits the pool of potential surrogate countries.¹³³

In this investigation, the Brazilian GTA data are both reliable and comprehensive with respect to providing SVs for all the relevant inputs. Moreover, we have on the record the necessary surrogate marine insurance and ocean freight values with which to adjust the Brazilian GTA FOB import values, as we did for the preliminary margin calculations. Finally, after careful consideration of the surrogate producer financial data on the record (as discussed further below) in combination with the quality of the GTA import data on the record (as discussed above), we find that Brazil continues to provide the best SV data without needing to consider the difference in delivery terms between the Brazilian and Malaysian GTA import data as a tiebreaker, which was the case in *Activated Carbon* and *Steel Racks from China*.

As mentioned in the *Preliminary Determination*,¹³⁴ Commerce also based its preliminary surrogate country selection on the quality and contemporaneity of the surrogate producers' financial statements on the record. We found that the 2019 financial statements of two of the three Brazilian producers, Adami and Duratex,¹³⁵ were preferable to the 2018 Malaysian financial statements initially submitted by the respondents for Sri Ledang and Inter Moulding because, although Adami, Duratex, Sri Ledang¹³⁶ and Inter Moulding¹³⁷ are all producers of identical or comparable merchandise, the financial statements for Adami and Duratex are more contemporaneous with the POI.¹³⁸

As noted above, the respondents claim that their subsequent SV submission contained financial statements for six additional Malaysian producers¹³⁹ of identical merchandise which are not only

¹³² See, e.g., *Preliminary Determination* PDM at 8.

¹³³ See, e.g., *Steel Racks from China* IDM at Comment 1; see also *Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part*, 75 FR 50992 (August 18, 2010), and accompanying IDM at Comment 16; see also *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018), and accompanying IDM at Comment 1; and *Antidumping Duty Investigation of Common Alloy Aluminum Sheet from the People's Republic of China: Affirmative Final Determination of Sales at Less-Than-Fair Value*, 83 FR 57421 (November 15, 2018), and accompanying IDM at Comment 3.

¹³⁴ *Id.* at 8-9.

¹³⁵ The full names of these companies are Adami SA-Woods (Adami) and Duratex SA (Duratex).

¹³⁶ The full name of this company is Sri Ledang Sdn Bhd (Sri Ledang).

¹³⁷ The full name of this company is Inter Moulding Industries Sdn Bhd (Inter Moulding).

¹³⁸ See *Preliminary Determination* PDM at 6 and 9.

¹³⁹ These companies are Chern Hinp Timber Trading Sdn Bhd (Chern Hinp); Haluan Mutiari Sdn Bhd (Huluan Mutiari); Minho (M) Berhad (Minho); Fine Quality Timber Sdn Bhd (Fine Quality); Classic Scenic Berhad (Classic Scenic); and LMT Superbonus Sdn Bhd (LMT Superbonus).

contemporaneous with the POI but are also far superior to the financial statements of the two Brazilian producers Commerce relied on for the *Preliminary Determination*. After a careful review of these six financial statements, we find that the financial data for only two of these companies, Minho and Classic Scenic, cover the entire POI, as do the two Brazilian financial statements we relied on for the preliminary calculations (*i.e.*, Adami and Duratex). Minho appears to be a holding company, as its financial statement consolidates the data of multiple subsidiaries. One of these companies, Victory Enterprise Sdn. Bhd. (Victory), appears to be a producer of subject merchandise, whereas another one, Lionvest Timber Industries Sdn. Bhd., produces sawn timber products.¹⁴⁰ Classic Scenic is also principally an investment holding company, with multiple subsidiaries, one of which, Finesse Moulding (M) Sdn. Bhd., produces picture frame mouldings, while another one, Lim Ket Leng Timber Sdn. Bhd., produces timber products.¹⁴¹ With respect to the other four Malaysian companies, we find that although the website information provided for each of them indicates that they are also producers of the subject merchandise, none of their financial statements covers the entire POI. In situations such as this one, Commerce has preferred to use financial statements of producers of subject merchandise that cover the entire POI, as they best reflect the respondent's production experience during the POI.

When selecting among surrogate producers' financial statements that meet the above-mentioned conditions (*i.e.*, contemporaneous with the entire POI and producers of subject merchandise), Commerce has also considered whether the surrogate producers' experience reflects the respondent's experience. With respect to Malaysian companies Minho and Classic Scenic, we find that data in their financial statements indicate that they have multiple divisions not involved with the subject merchandise and timber trading and extraction operations and activities, neither of which Yinfeng has based on the data contained in its questionnaire response. Although the two Brazilian surrogate companies, Adami and Duratex also have timber extraction operations, Adami's principle operations are the production of wood products (including the subject merchandise) and Adami does not have multiple subsidiaries.¹⁴² Duratex's financial data enable us to derive financial ratios specific to its wood products division.¹⁴³ Comparing the financial data for the two Brazilian producers and two Malaysian producers under consideration that meet our surrogate producer selection criteria, we find that the data for the two Brazilian producers best represents the industry under investigation, as they are limited more to wood products and less inclusive of industries unrelated to the merchandise under investigation.

Based on all of the considerations summarized above, we find that the Brazilian GTA data and Brazilian producers' financial statements provide the best available information with which to value Yinfeng/Mangrove's FOPs in the final determination.¹⁴⁴

¹⁴⁰ See Respondents' July 6, 2020 SV Submission at Exhibit SV2-3.

¹⁴¹ *Id.* at Exhibit SV2-4.

¹⁴² See Petitioner's June 17, 2020 SV Submission at Exhibit 8A.

¹⁴³ *Id.* at Exhibit 8B. We note that the respondents also submitted financial statements for Victory (a division of Minho) and Finesse Moulding (a division of Classic Scenic) but the financial statements of these divisions are only for 2018. See Respondents' July 6, 2020 SV Submission at Exhibits SV2-20 and SV2-18, respectively.

¹⁴⁴ For a more detailed analysis of the six Malaysian surrogate producers' financial statements, see Surrogate Value Final Determination Memorandum.

Finally, with respect to the respondents' contention that it is Commerce's practice to always consider all SV information timely submitted prior to the preliminary determination (*i.e.*, no later than 30 days before the scheduled date of the preliminary determination in accordance with 19 CFR 351.301(c)(3)), we disagree that this is Commerce's established practice as required by Commerce's regulations.

In its May 8, 2020 letter¹⁴⁵ providing all parties in this investigation with the same opportunity to submit SVs prior to the regulatory deadline (*i.e.*, 30 days prior to the preliminary determination deadline), Commerce requested that SV information and rebuttal comments be submitted by June 17 and 29, 2020, respectively, for consideration in the preliminary determination. The May 8, 2020 letter also stated that, notwithstanding these deadlines, pursuant to Commerce's regulations at 19 CFR 351.301(c)(3), parties also had a second opportunity to submit SVs in this investigation no later than 30 days prior to the scheduled date of the preliminary determination.¹⁴⁶ This letter did not state that any SV data submitted at that time would be received in time for use in the preliminary determination.

It is Commerce's practice to provide parties with an opportunity to submit SV data for consideration in the preliminary determination and establish a deadline for this purpose.¹⁴⁷ If, however, parties choose to submit additional SV data by the deadline specified in 19 CFR 351.301(c)(3), Commerce may find that there is insufficient time to consider that SV data for the preliminary determination.¹⁴⁸ This was the case in this investigation and it is not an uncommon situation in NME investigations or administrative reviews for Commerce to be unable to consider SV data submitted on the regulatory deadline for the preliminary determination, particularly if Commerce has established an earlier deadline for submitting SV data for consideration in the preliminary determination or results.¹⁴⁹ However, it is Commerce's practice to consider in the final determination all SV data submitted prior to or on the regulatory deadline and we have done so in the final determination of this investigation.

Comment 4: Surrogate Value Selection for Laminated Veneer Lumber/Plywood/Tray Material Inputs

*Respondents' Arguments*¹⁵⁰

- Commerce should rely on the import data from HTS subheading 4412.33 (instead of HTS subheading 4412.19 which Commerce selected in the *Preliminary Determination*) to

¹⁴⁵ See Commerce's Letter, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information," dated May 20, 2020.

¹⁴⁶ *Id.*

¹⁴⁷ See Commerce's Letter, "Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Denial of Post-Preliminary Determination Request," dated October 2, 2020.

¹⁴⁸ *Id.*

¹⁴⁹ See, e.g., *Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2015-2016*, 82 FR 36746 (August 7, 2017), and accompanying PDM at 16.

¹⁵⁰ See Respondents' Common Issues Case Brief at 28-30.

value these inputs because HTS subheading 4412.33 covers ply of poplar, whereas HTS subheading 4412.33. does not, and is, therefore, more specific to the inputs at issue.¹⁵¹

- Yinfeng described its laminated veneer lumber (LVL) and plywood inputs as having an outer ply of poplar. Bel Trade described its LVL input as having outer ply layers made of poplar and its tray input primarily made of poplar.¹⁵²
- The Malaysian HTS provides a more specific description for HTS subheading 4412.99, thus demonstrating that LVL, plywood, and trays made of poplar are not included in this HTS subheading.¹⁵³
- U.S. Customs classifications indicate that plywood or laminated wood panels with an outer ply of non-coniferous wood should be classified under HTS 4412.33 and not 4412.99.¹⁵⁴

*Petitioner's Rebuttal Arguments*¹⁵⁵

- The petitioner did not comment on this issue.

Commerce Position: We agree with the respondents that the description of the Brazilian HTS subheading 44123300,¹⁵⁶ is more specific to the respondents' production of subject merchandise because it includes plywood made of poplar, whereas the description of HTS subheading 44129900¹⁵⁷ does not.

Specifically, the Brazilian HTS indicates that the 44123300 HTS subheading includes:

Plywood consisting solely of sheets of wood ≤ 6 mm thick, with at least one outer ply of non-coniferous wood of the species alder, ash, beech, birch, cherry, chestnut, elm, eucalyptus, hickory, horse chestnut, lime, maple, oak, plane tree, poplar, aspen, robinia, tulipwood or walnut (excl. of bamboo, with an outer ply of tropical wood, and sheets of compressed wood, cellular wood panels, inlaid wood and sheets identifiable as furniture components).¹⁵⁸

Therefore, we agree that HTS subheading 44123300 is more appropriate than HTS subheading 44129900 to value these inputs and we have relied on import data from HTS subheading 44123300 to value LVL, plywood, and trays, where applicable, for Yinfeng/Mangrove, in the final determination.

Comment 5: Domestic Subsidy Offset

¹⁵¹ *Id.* at 28.

¹⁵² *Id.* at 28-29.

¹⁵³ *Id.* at 29.

¹⁵⁴ *Id.* at 29.

¹⁵⁵ *See* Petitioner's Rebuttal Brief at 17-21.

¹⁵⁶ This HTS subheading number actually extends to eight, not six, digits. The unabbreviated number for this HTS subheading is 4412.33.00.

¹⁵⁷ This HTS subheading number actually extends to eight, not six, digits. The unabbreviated number for this HTS subheading is 4412.99.00.

¹⁵⁸ *See* Petitioner's Letter, "Wood Mouldings and Millwork Products from the People's Republic of China: Surrogate Value Comments," dated June 17, 2020 at Exhibit 2.

*Mandatory Respondents Arguments*¹⁵⁹

- Commerce found in the companion CVD investigation that Yinfeng/Mangrove benefited from purchases of electricity, sawn wood, plywood, primer, and adhesives for less than adequate remuneration (LTAR); thus, Commerce should make a domestic subsidy pass through adjustment for these programs.¹⁶⁰
- Without adjustments, Commerce is effectively applying a double-remedy for these programs, which is unlawful.¹⁶¹
- The costs of the materials at issue impact Bel Trade's and Yinfeng/Mangrove's pricing, as these materials are major inputs in the production process and their costs changed during the POI.¹⁶²
- Both mandatory respondents would have adjusted their prices if their costs changed up to a certain percent (threshold). Whether changes in price actually occurred during the POI is irrelevant because under Commerce's theory of LTAR benefits, prices were already subsidized at the start of the CVD POI, and certainly at the start of the AD POI. Therefore, the subsidy impacting the price is built in, even if there were no changes during the POI.
- Based on the above arguments, both respondents have demonstrated a subsidies-to-cost-link and a cost-to-price link, and the need for the double-remedy offset.¹⁶³
- Commerce must avoid double counting by adjusting EPs to offset those subsidies.¹⁶⁴

*Petitioner's Rebuttal Arguments*¹⁶⁵

- Commerce properly concluded in the *Preliminary Determination* that there is no basis to make an adjustment pursuant to section 777(A)(f) of the Act for either Bel Trade or Yinfeng/Mangrove, finding in particular that the respondents' double remedy questionnaire responses do not indicate a subsidies-to-cost linkage or a cost-to-price linkage.¹⁶⁶
- Respondents do not point to any information that would warrant a departure from Commerce's preliminary findings, and Commerce should continue to find that the statutory criteria for an adjustment are not met.¹⁶⁷
- Commerce should reject respondents' requests for a double-remedy adjustment.¹⁶⁸

Commerce Position: Because we are not relying on Bel Trade's data for this final determination, we only refer to the data submitted by Yinfeng/Mangrove in response to the

¹⁵⁹ See Respondents' Common Issues Case Brief at 30-32.

¹⁶⁰ *Id.* at 31

¹⁶¹ *Id.*

¹⁶² *Id.* at 31-32.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 32.

¹⁶⁵ See Petitioner's Rebuttal Brief at 45-48.

¹⁶⁶ *Id.* at 46.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 45.

parties' comments. We disagree with Yinfeng/Mangrove and continue to find that it has not demonstrated a subsidies-to-cost linkage or a cost-to-price linkage that would warrant granting a domestic subsidy offset pursuant to section 777(A)(f) of the Act.

In the *Preliminary Determination*, we stated that in order to examine the effects of concurrent countervailable subsidies in calculating dumping margins for respondents in this investigation, Commerce requested that Yinfeng/Mangrove submit information with respect to subsidies relevant to their eligibility for an adjustment to the calculated weighted-average dumping margins.¹⁶⁹ We also stated that by simply providing monthly costs for inputs included in each LTAR-related subsidy program and documentation showing how the cost of each input is recorded in its accounting records, Yinfeng/Mangrove did not provide sufficient evidence that the above-referenced subsidies had an impact on its cost of manufacture (COM), nor did it demonstrate a decrease in prices due to changes in its COM.¹⁷⁰

Yinfeng/Mangrove's statements in its double remedy responses that it would have changed prices if its costs changed up to a certain percent (threshold) is not a sufficient basis for demonstrating a subsidies-to-cost linkage or a cost-to-price linkage based on Commerce practice. Moreover, the respondents' argument that it is irrelevant whether changes in price actually occurred during the POI when Commerce finds such subsidies exist in a companion CVD investigation, is not convincing either, because even if a subsidy impacting the price is built in to the price, the respondents still need to demonstrate that the subsidy is impacting their cost and pricing practices. Therefore, it is essential that respondents show how their costs are impacted by the subsidies (subsidy-to-cost linkage) they received during the POI for Commerce to conduct a domestic subsidy offset analysis as required under section 777A(f)(1)(C) of the Act. In this case, Yinfeng/Mangrove failed to provide information showing how its costs and prices are impacted by the subsidies it received during the POI.

As we also noted in the *Preliminary Determination*, pursuant to section 777A(f)(1)(B) of the Act, in investigations, we normally examine the preliminary report issued by the International Trade Commission (ITC) to determine whether prices of the subject merchandise increased or decreased during the POI.¹⁷¹ In this instance, the ITC import data for the subject merchandise showed a general increase in the U.S. average import price during the relevant period¹⁷² and the respondents failed to provide pricing information showing otherwise.

Therefore, for the reasons mentioned above, we continue to find that a domestic subsidy offset for Yinfeng/Mangrove is not warranted in this investigation and our preliminary decision on this matter remains unchanged for the final determination.

¹⁶⁹ See *Preliminary Determination* PDM at 31.

¹⁷⁰ *Id.* at 32.

¹⁷¹ *Id.*

¹⁷² *Id.*

IX. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final determination of this investigation and the final dumping margins for all the investigated companies in the *Federal Register*.

Agree

Disagree

12/28/2020

X



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance