

File No. 14586 would authorize researchers to conduct aerial and vessel surveys in the Straits of Florida off Florida's southeast coast. The goal of this project would be to collect baseline data regarding the abundance and distribution of marine mammals and sea turtles within the proposed study site. Since this study site is being considered as a testing site for ocean energy technology, researchers would assess the presence of animals before, during, and after the testing.

Abundance surveys could result in the harassment of sea turtles [leatherback (*Dermochelys coriacea*), loggerhead, green, hawksbill, and Kemp's ridley], as well as numerous cetacean species including fin whales (*Balaenoptera physalus*), sperm whales (*Physeter macrocephalus*), humpback whales (*Megaptera novaengliae*), and the North Atlantic right whale (*Eubalaena glacialis*). The permit would be valid for five years from the date of issuance.

Dated: February 25, 2010.

**P. Michael Payne,**

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-890]

#### Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** March 3, 2010.

**SUMMARY:** On August 20, 2009, the Department of Commerce ("Department") initiated a new shipper review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China ("PRC") covering sales of subject merchandise made by Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd. ("Zhejiang Tianyi") and Rise Furniture Co., Ltd. ("Rise Furniture").<sup>1</sup> On December 29, 2009, the Department rescinded the new shipper review with respect to Rise Furniture.<sup>2</sup>

<sup>1</sup> See *Wooden Bedroom Furniture from the People's Republic of China: Initiation of Antidumping New Shipper Reviews*, 74 FR 43096 (August 26, 2009) ("Initiation Notice").

<sup>2</sup> See *Wooden Bedroom Furniture from the People's Republic of China: Rescission of*

The Department preliminary determines that Zhejiang Tianyi has not made sales at less than normal value ("NV"). If these preliminary results are adopted in our final results of review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period January 1, 2009 through June 30, 2009 (the period of review or POR), for which the importer-specific assessment rates are above *de minimis*.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The notice announcing the antidumping duty order on wooden bedroom furniture from the PRC was published on January 4, 2005.<sup>3</sup> On July 31, 2009, the Department received timely requests for new shipper reviews from Rise Furniture and Zhejiang Tianyi. On August 20, 2009, the Department initiated new shipper reviews of Rise Furniture and Zhejiang Tianyi. See *Initiation Notice*.

On August 24, 2009, the Department issued an antidumping duty questionnaire to Rise Furniture and Zhejiang Tianyi. On November 10, 2009, Rise Furniture withdrew its request for a new shipper review and, accordingly, the Department rescinded the new shipper review with respect to Rise Furniture. From September 2009 through January 2010, the Department received timely questionnaire and supplemental questionnaire responses from Zhejiang Tianyi.

On October 28, 2009, the Office of Policy issued a memorandum identifying six countries as being at a level of economic development comparable to the PRC for the instant POR. The countries identified in that memorandum are India, Indonesia, the Philippines, Colombia, Thailand, and Peru.<sup>4</sup> On November 2, 2009, the Department released the Policy Memorandum to interested parties and

*Antidumping Duty New Shipper Review*, 75 FR 339 (January 5, 2010).

<sup>3</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China*, 70 FR 329 (January 4, 2005).

<sup>4</sup> See Memorandum entitled, "Request for a List of Surrogate Countries for a New Shipper Review of the Antidumping Duty Order on Wooden Bedroom Furniture ("WBF") from the People's Republic of China ("PRC")," dated October 28, 2009 ("Policy Memorandum").

provided parties with an opportunity to submit comments regarding the selection of a surrogate country in the instant review.<sup>5</sup> On November 16, 2009, the American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc. (collectively, "Petitioners") provided publicly-available information to value factors of production ("FOP").<sup>6</sup> On December 29, 2009, Zhejiang Tianyi provided publicly-available data to value its FOP.<sup>7</sup>

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary results of this review is now February 23, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

#### Period of Review

The POR for Zhejiang Tianyi is January 1, 2009 through June 30, 2009.

#### Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood

<sup>5</sup> See Letter from Howard Smith, Program Manager, Office 4, to All Interested Parties, "2009 New Shipper Reviews of Wooden Bedroom Furniture from the People's Republic of China (PRC)," dated November 2, 2009.

<sup>6</sup> See Letter from Petitioners regarding, "Wooden Bedroom Furniture From the People's Republic of China: Submission of Publicly Available Information to Value the Factors of Production," dated November 16, 2009 ("Petitioners' Surrogate Value Submission").

<sup>7</sup> See Letter from Zhejiang Tianyi regarding, "Wooden Bedroom Furniture From the People's Republic of China: Surrogate Value Data," dated December 29, 2009 ("Zhejiang Tianyi's Surrogate Value Submission").

components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chiffoniers, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-on-chests,<sup>8</sup> highboys,<sup>9</sup> lowboys,<sup>10</sup> chests of drawers,<sup>11</sup> chests,<sup>12</sup> door chests,<sup>13</sup> chiffoniers,<sup>14</sup> hutches,<sup>15</sup> and armoires;<sup>16</sup> (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture,

<sup>8</sup> A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

<sup>9</sup> A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

<sup>10</sup> A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

<sup>11</sup> A chest of drawers is typically a case containing drawers for storing clothing.

<sup>12</sup> A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

<sup>13</sup> A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

<sup>14</sup> A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

<sup>15</sup> A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

<sup>16</sup> An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;<sup>17</sup> (9) jewelry armories;<sup>18</sup> (10) cheval mirrors;<sup>19</sup> (11) certain metal parts;<sup>20</sup> (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and

<sup>17</sup> As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

<sup>18</sup> Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 in width, 18 in depth, and 49 in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China, dated August 31, 2004. See also *Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination to Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

<sup>19</sup> Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, i.e., a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See *Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

<sup>20</sup> Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 9403.90.7000.

marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds<sup>21</sup> and (14) toy boxes.<sup>22</sup>

Imports of subject merchandise are classified under subheading 9403.50.9040 of the HTSUS as "wooden . . . beds" and under subheading 9403.50.9080 of the HTSUS as "other . . . wooden furniture of a kind used in the bedroom." In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as "parts of wood" and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as "glass mirrors . . . framed." This order covers all WBF meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Bona Fide Sales Analysis

Consistent with the Department's practice, the Department investigated the *bona fide* nature of the sales made by Zhejiang Tianyi for this review. In evaluating whether or not a single sale in a new shipper review is commercially reasonable, and therefore *bona fide*, the Department considers, *inter alia*, such factors as: (1) the timing of the sale; (2) the price and quantity; (3)

<sup>21</sup> Upholstered beds that are completely upholstered, i.e., containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 72 FR 7013 (February 14, 2007).

<sup>22</sup> To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials ("ASTM") standard F963-03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum "Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box," dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was made on an arm's-length basis. *See, e.g., Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1250 (CIT 2005). Accordingly, the Department considers a number of factors in its *bona fide* analysis, "all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise." *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342 (CIT 2005) (citing *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002)).

The Department preliminarily finds that the sale of subject merchandise made by Zhejiang Tianyi was made on a *bona fide* basis. Specifically, the Department preliminarily finds that: (1) the timing of the sale by itself does not indicate that the sale might not be *bona fide*; (2) the price and quantity of the sale was within the range of the prices and quantities of other entries of subject merchandise from the PRC into the United States; (3) Zhejiang Tianyi and its customer(s) did not incur any extraordinary expenses arising from the transaction; (4) the new shipper sale was made between unaffiliated parties at arm's length; and (5) the merchandise was resold at a profit.<sup>23</sup> Therefore, the Department has preliminarily found that Zhejiang Tianyi's sale of subject merchandise to the United States was *bona fide* for purposes of this new shipper review.

#### Non-Market Economy Country Status

In every antidumping case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country.<sup>24</sup> In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the "Act"), any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, the

<sup>23</sup> See Memorandum to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, regarding, "Antidumping Duty New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: *Bona fide* Sales Analysis for Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.," dated February 23, 2010.

<sup>24</sup> See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003) (unchanged in the final results).

Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China*, 59 FR 22585, 22586-7 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104, 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

Zhejiang Tianyi is a wholly Chinese-owned company and is located in the PRC. Therefore, the Department has analyzed whether it has demonstrated the absence of both *de jure* and *de facto* government control over its export activities.

#### A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

The evidence provided by Zhejiang Tianyi supports a preliminary finding of

*de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with Zhejiang Tianyi's business and export licenses; (2) applicable legislative enactments decentralizing control over PRC companies; and (3) formal measures by the government decentralizing control of PRC companies.

#### B. Absence of De Facto Control

The Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586-7; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are subject to a degree of government control which would preclude the Department from assigning separate rates.

The evidence provided by Zhejiang Tianyi supports a preliminary finding of *de facto* absence of government control over its export activities based on the following: (1) Zhejiang Tianyi sets its own export prices independent of the government and without the approval of a government authority; (2) Zhejiang Tianyi's general manager has the authority to negotiate and bind the company in an agreement; (3) Zhejiang Tianyi maintains autonomy from the government in making decisions regarding the selection of management; and (4) Zhejiang Tianyi retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>25</sup>

The evidence placed on the record by Zhejiang Tianyi demonstrates an absence of *de jure* and *de facto* government control, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the

<sup>25</sup> See Section A response at 11-16.

Department has preliminarily granted a separate rate to Zhejiang Tianyi.

### Surrogate Country

When the Department conducts an antidumping duty new shipper review of imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most circumstances, on the NME producer's FOP valued in a surrogate market-economy country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOP using "to the extent possible, the prices or costs of factors of production in one or more market economy countries that are – (A) at a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise." Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value all FOP in a single country, except for labor.

In the instant review, the Department identified India, Indonesia, the Philippines, Colombia, Thailand, and Peru as being at a level of economic development comparable to the PRC.<sup>26</sup> Neither Petitioners nor Zhejiang Tianyi provided comments on the selection of a surrogate country. However, both parties submitted publicly-available Philippine data for valuing Zhejiang Tianyi's FOP.<sup>27</sup> On January 15, 2010, the Department placed information regarding the selection of a surrogate country on the record.<sup>28</sup>

Based on the information on the record, we find that the Philippines is a significant producer of comparable merchandise. Specifically, *The Furniture Industry in the Philippines* report indicates that in 2006, Philippine manufacturers produced furniture valued at \$813 million and the Philippines exported furniture valued at \$279 million.<sup>29</sup> The *State of the Sector Report on Philippine Furniture 2006* indicates that wooden furniture has replaced rattan as the most commonly used material and accounted for 51% of all Philippine furniture exports.<sup>30</sup> In addition, both *The Furniture Industry in the Philippines* and *State of the Sector*

*Report on Philippine Furniture 2006* describes the furniture sector as comprised of approximately 15,000 manufacturers and 800,000 workers.<sup>31</sup> Thus, record evidence shows that the Philippines is a significant producer of merchandise that is comparable to the merchandise under review.

With respect to data considerations in selecting a surrogate country, both Petitioners and Zhejiang Tianyi have submitted publicly-available Philippine data for valuing Zhejiang Tianyi's FOP. In addition, the Department used the Philippines as the primary surrogate country in the second and third administrative reviews of this proceeding.<sup>32</sup> Therefore, based on its experience, the Department finds that the Philippines has, in the past, provided reliable, publicly-available data for valuing the FOP.

Thus, the Department has preliminarily selected the Philippines as the surrogate country because the record shows that the Philippines is at a level of economic development comparable to that of the PRC and is a significant producer of merchandise comparable to subject merchandise. Moreover, the record indicates that sufficient, contemporaneous, public Philippine data are readily-available.<sup>33</sup> Accordingly, we have selected the Philippines as the surrogate country and, accordingly, have calculated NV using Philippine prices to value Zhejiang Tianyi's FOP.<sup>34</sup> In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly-available information to value the FOP until 20 days after the date of publication of the preliminary results.<sup>35</sup>

<sup>31</sup> See *id.*

<sup>32</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273, 8277-78 (February 13, 2008) (unchanged in the final results) and *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Partial Rescission of Review*, 74 FR 6372, 6376 (February 9, 2009) (unchanged in the final results).

<sup>33</sup> See *Policy Bulletin* at 4.

<sup>34</sup> See Memorandum entitled, "2009 New Shipper Review of Wooden Bedroom Furniture from the People's Republic of China: Surrogate Value Memorandum for the Preliminary Results," dated February 23, 2010 ("Factor Valuation Memorandum")

<sup>35</sup> In accordance with 19 CFR 351.301(c)(1), for the final results of this new shipper review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the

### Fair Value Comparisons

In accordance with section 777(A)(d) of the Act, to determine whether Zhejiang Tianyi sold wooden bedroom furniture to the United States at less than NV, the Department compared Zhejiang Tianyi's export price ("EP") of wooden bedroom furniture to the NV of wooden bedroom furniture, as described in the "Export Price," and "Normal Value" sections of this notice.

### Export Price

In accordance with section 772(a) of the Act, the Department considered the U.S. prices of sales to the United States made by Zhejiang Tianyi to be EPs because the first sale to an unaffiliated party was made before the date of importation and the use of constructed export price was not otherwise warranted.

The Department calculated EP based on the price to unaffiliated purchaser(s) in the United States. The Department deducted movement expenses from the gross unit U.S. sales price in accordance with section 772(c) of the Act. These movement expenses include foreign inland freight from the plant/warehouse to the port of exit, and foreign brokerage and handling. For a detailed description of these adjustments, see the Zhejiang Tianyi analysis memorandum entitled, "Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results Analysis Memorandum for Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd.," ("Zhejiang Tianyi Analysis Memorandum"), dated February 23, 2010.

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(e) of the Act. When determining NV in an NME context, the Department will base NV on FOP, because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3)

record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>26</sup> See *Policy Memorandum*.

<sup>27</sup> See Petitioners' Surrogate Value Submission and Zhejiang Tianyi's Surrogate Value Submission.

<sup>28</sup> See Memorandum entitled, "2009 New Shipper Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China," dated January 15, 2010.

<sup>29</sup> See attachment to the memorandum entitled, "2009 New Shipper Review of the Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China," dated January 15, 2010.

<sup>30</sup> See *id.*

of the Act, FOP include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. The Department based NV on FOP reported by Zhejiang Tianyi for materials, energy, labor and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly-available surrogates to value FOP, but when a producer sources an input from a market economy and pays for it in market economy currency, the Department will normally value the factor using the actual price paid for the input. However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market economy purchase prices and use surrogate values to determine the NV.<sup>36</sup> Where the facts developed in either U.S. or third-country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry specific export subsidies), the Department will have reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized.<sup>37</sup>

In avoiding the use of prices that may be subsidized, the Department does not conduct a formal investigation to ensure that such prices are not subsidized, but rather relies on information that is generally available at the time of its determination.<sup>38</sup>

### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOP reported by Zhejiang Tianyi for the POR. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly-available Philippine surrogate values (except as noted below). In selecting the surrogate values, the Department considered the quality, specificity, and contemporaneity of the data. As appropriate, the Department adjusted input prices by including freight costs to

make them delivered prices. Specifically, the Department added to Philippine import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the respondent's factory or the distance from the nearest seaport to the respondent's factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997).

We used import values for the POR from the Philippines National Statistics Office ("Philippines NSO") reported in U.S. dollars on a cost, insurance, and freight basis to value the following inputs: abrasive cloth, bolt, drawer guide, glue, leg pad with nail, leveling adjuster, nuts, paints, pine wood, plywood, pull knob for drawer, sandpaper, screw, staple, stopper, washer, wooden pin, non-adjustable wrench, and packing materials (*i.e.*, corrugated paper, polyfoam, EPE sheet, and adhesive tape). The Philippines NSO is the only data source on the record that provides data on a net weight basis, which is the same basis as reported by Zhejiang Tianyi in reporting its FOP. For a detailed description of all surrogate values used to value the reported FOP, see Factor Valuation Memorandum.

Where we could not obtain publicly-available information contemporaneous with the POR with which to value FOP, we inflated (or deflated) the surrogate values using the Philippine Wholesale Price Index as published in the *International Financial Statistics* of the International Monetary Fund.

Consistent with 19 CFR 351.408(c)(3), we valued labor using the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in December 2009, available at <http://ia.ita.doc.gov/wages/index.html>. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. If the NME wage rates are updated by the Department prior to issuance of the final results, we will use the updated wage rate in the final results. See Factor Valuation Memorandum.

We valued electricity using contemporaneous Philippine data from *The Cost of Doing Business in Camarines Sur*, which is available at the Philippine government's website for the

province: <http://www.camarinessur.gov.ph>. This data pertained only to industrial consumption. See Factor Valuation Memorandum.

We calculated the value of domestic brokerage and handling using brokerage fees on the website of the Republic of the Philippines Tariff Commission, <http://www.tariffcommission.gov.ph/cao01-2001.html>.

We calculated the surrogate value for truck freight using Philippine data from two sources: 1) *The Cost of Doing Business in Camarines Sur*, available at the Philippine government's website for the province: <http://www.camarinessur.gov.ph>; and 2) a news article from the *Manila Times* entitled "Government Mulls Cut in Export Target."

We valued factory overhead, selling, general, and administrative expenses ("SG&A"), and profit, using the audited financial statements for the fiscal year ending December 31, 2008, from the following producers: Tequesta International Inc.; Insular Rattan and Native Products Corp.; Horizon International Manufacturing, Inc.; Arkane International Corporation; and Casa Cebuana Incorada, which are Philippine producers of merchandise identical to subject merchandise that received no countervailable subsidies and that earned a before-tax profit in 2008. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy ("ML&E") costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. For further discussion, see Factor Valuation Memorandum.

### Currency Conversion

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

### Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the period January 1, 2009, through June 30, 2009:

Exporter	Weighted-average margin (percent)
Zhejiang Tianyi Scientific & Educational Equipment Co., Ltd. ...	0

<sup>36</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1998-1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 1953 (January 10, 2001) ("TRBs 1998-1999"), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>37</sup> See TRBs 1998-1999 at Comment 1; see also *China Nat'l. Machinery Imp. & Exp. Corp. v. United States*, 293 F. Supp. 2d 1334, 1338-39 (Ct. Int'l Trade 2003).

<sup>38</sup> See H.R. Rep. 100-576, at 590 (1988), reprinted in 1988 U.S.C.A.N. 1547, 1623-24.

## Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

## Public Comment

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c). Rebuttals to written comments must be limited to the issues raised in the written comments and may be filed no later than five days after the deadline for filing case briefs. See 19 CFR 351.309(d). Further, parties submitting written comments and rebuttal comments are requested to provide the Department with an additional copy of those comments on diskette. Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). If requested, a hearing normally will be held two days after the scheduled date for submission of rebuttal comments. See 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of this new shipper review, which will include the results of its analysis of any issues raised in written comments, within 90 days of the date on which these preliminary results are issued, in accordance with 19 CFR 351.214(i)(1), unless the time limit is extended. See 19 CFR 351.214(i)(2).

## Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, the Department will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. The Department will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

## Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for shipments of subject merchandise from Zhejiang Tianyi entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise produced and exported by Zhejiang Tianyi, the cash deposit rate will be that established in the final results of this review; (2) for subject merchandise exported by Zhejiang Tianyi but not produced by Zhejiang Tianyi, the cash deposit rate will continue to be the PRC-wide rate of 216.01 percent; (3) for subject merchandise produced by Zhejiang Tianyi, and exported by any party but itself, the cash deposit rate will be the rate applicable to the exporter. If the cash deposit rate calculated in the final results is zero or *de minimis*, no cash deposit will be required for those entries of subject merchandise both produced and exported by Zhejiang Tianyi. These cash deposit requirements, when imposed, shall remain in effect until further notice.

## Notification to Interested Parties

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(4).

Dated: February 23, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

[Docket Number: 100217092-0110-01]

### Solicitation of Participation In and Public Meeting to Discuss Public Safety 700 MHz Broadband Demonstration Network

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of solicitation of participation.

**SUMMARY:** The National Institute of Standards and Technology (NIST) announces the building of a 700 MHz Public Safety Broadband Demonstration Network (Demonstration Network), which will provide manufacturers and first responders a location for early deployment of their systems in a multi-vendor, neutral host environment.<sup>1</sup> Emergency responders will see how these broadband systems will function and determine through hands-on experience how these systems meet their unique needs. This Notice of Solicitation of Participation both seeks Expressions of Interest from parties that may be interested in participating in the Demonstration Network and also announces a project kick-off meeting for all interested stakeholders.

**DATES:** Expressions of Interest in participating in the program are due on or before 5:00 pm Mountain Time, April 30, 2010. A kick-off informational meeting will be held March 15, 2010, via webinar over the Internet. The registration deadline for participation in the meeting is due by 5 p.m. Mountain Time, March 12, 2010. Please see registration instructions in the **SUPPLEMENTARY INFORMATION** section of this notice.

**ADDRESSES:** Expressions of Interest in participating in the Demonstration Network and registrations for the kick-off meeting should be sent to [700MHz@its.bldrdoc.gov](mailto:700MHz@its.bldrdoc.gov). The webinar details, meeting time and teleconference bridge information will be e-mailed to registrants prior to the event.

**FOR FURTHER INFORMATION CONTACT:** Emil Olbrich, (303) 497-4950, e-mail: [700MHz@its.bldrdoc.gov](mailto:700MHz@its.bldrdoc.gov). The mailing address is 325 Broadway, Mail Stop ITS.P, Boulder, CO, 80305.

**SUPPLEMENTARY INFORMATION:** Public safety agencies have long struggled with

<sup>1</sup> NIST Tech Beat (2009), Demonstration Network Planned for Public Safety 700 MHz Broadband. [http://www.nist.gov/public\\_affairs/techbeat/tb2009\\_1215.htm](http://www.nist.gov/public_affairs/techbeat/tb2009_1215.htm).