

from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from Foshan Jingxin, Senbao, Yililan, Yuhua, Xilinmen, East Grace, Meihua, and Sanmen, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of innersprings, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date of the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs (*see* 19 CFR 351.309(c)(i) and (d)). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing shortly after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this

notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

Unless the deadline is extended pursuant to section 735(a)(2) of the Act, the Department will make its final determination within 75 days after the date of this preliminary determination, pursuant to section 735(a)(1) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: July 30, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-18031 Filed 8-5-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-522-803]

#### Uncovered Innerspring Units from the Socialist Republic of Vietnam: Notice of Preliminary Determination of Sales at Less Than Fair Value

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

**EFFECTIVE DATE:** August 6, 2008.

**SUMMARY:** We preliminarily determine that uncovered innerspring units ("innersprings") from the Socialist Republic of Vietnam ("Vietnam") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. We intend to make our final determination within 75 days after the date of this preliminary determination pursuant to section 735 of the Act.

**FOR FURTHER INFORMATION CONTACT:** Eugene Degnan or Robert Bolling, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230;

telephone: (202) 482-0414 or 482-3434, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Case History

On December 31, 2007, Leggett and Platt, Incorporated ("Petitioner"), filed petitions in proper form on behalf of the domestic industry, concerning imports of innersprings from the People's Republic of China ("the PRC"), South Africa, and Vietnam (collectively, the Petitions). On January 28, 2008, the Department of Commerce ("the Department") published in the **Federal Register** the initiation of an antidumping investigations on innersprings from the PRC, South Africa, and Vietnam. *See Uncovered Innerspring Units From the People's Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 73 FR 4817 (January 28, 2008) ("Initiation Notice"). The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*, 73 FR at 4818. We did not receive comments regarding product coverage from any interested party. Additionally, in the *Initiation Notice*, the Department applied a process by which exporters and producers may obtain separate-rate status in non-market economy ("NME") investigations. The process requires exporters and producers to submit a separate-rate status application ("SRA"),<sup>1</sup> rather than a full response to Section A of the Department's Questionnaire. The standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities), however, has not changed. The SRA for this investigation was posted on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on January 28, 2008. The due date for filing an SRA was March 28, 2008. No party filed an SRA in this investigation.

In our *Initiation Notice*, we requested parties to provide comments regarding the physical characteristics of subject merchandise by February 11, 2008, and rebuttal comments by February 21, 2008. On February 8, 2008, we extended the deadline for submission of comments regarding physical characteristics to February 15, 2008, and the deadline for rebuttal comments to

<sup>1</sup> *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005), available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

February 25, 2008. On February 15, 2008, Petitioner submitted comments. No other party submitted comments, and no party submitted rebuttal comments.

On February 14, 2008, the International Trade Commission ("ITC") notified the Department of its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of innersprings from the PRC, South Africa, and Vietnam. See *Uncovered Innerspring Units From China, South Africa, and Vietnam*, USITC Pub. 3983, Inv. Nos. 731-TA-1140-1142 (Preliminary) (February 2008).

On February 21, 2008, the Department issued its Quantity and Value ("Q&V") questionnaire to eleven potential exporters of innersprings from Vietnam identified in the petition. We received a response to our Q&V questionnaire from only three of the potential respondents (i.e., Yang Ching Enterprise Co., Ltd. ("Yang Ching"), Uu Viet Co., Ltd. ("Uu Viet"), and Dong Bang Stainless Steel Co. Ltd ("Dong Bang")). Each potential respondent stated that they did not export innersprings to the United States during the period of investigation ("POI"). See Memorandum to the File, Response to the Department of Commerce's Quantity and Value Questionnaire from Yang Ching, March 13, 2008; Memorandum to the File, Response to the Department of Commerce's Quantity and Value Questionnaire from Uu Viet, March 20, 2008; and Memorandum to the File, Response to the Department of Commerce's Quantity and Value Questionnaire from Dong Bang, March 25, 2008.

#### Period of Investigation

The POI is April 1, 2007, through September 30, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was December 2007. See 19 CFR 351.204(b)(1).

#### Scope of Investigation

The merchandise covered by this investigation is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (e.g., twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in this scope regardless of width and length. Included within this definition are innersprings

typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

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

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

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.00.70, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this proceeding is dispositive.

#### Non-Market-Economy ("NME") Treatment

The Department considers Vietnam to be an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005, 71007 (December 8, 2004). The Department has not revoked Vietnam's status as an NME country. Therefore, in this preliminary determination, we have treated Vietnam as an NME country and applied our NME methodology.

#### 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 should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation involving 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 must demonstrate the absence of both *de jure* and *de facto* government control over export activities, under a test developed by the Department and described in the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991); and *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994).

No party filed separate rate information in this investigation. Absent separate rate information, the Department has presumed that all companies within Vietnam exporting the subject merchandise are subject to government control and are part of the Vietnam-wide entity and should be assessed a single, Vietnam-wide, antidumping duty rate.

#### Application of Facts Available

Sections 776(a)(1) and (2) of the Act provides that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides 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 applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the

information. Where all of these conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “[i]nformation 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 concerning the subject merchandise.” Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, at 870 (1994) (“SAA”). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See *id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

### Application of Total Adverse Facts Available

#### *The Vietnam-Wide Entity*

The Department issued a Q&V questionnaire to all exporters identified in the petition. Out of the eleven exporters to whom the Department issued its Q&V questionnaire, only three responded. Each of the responding exporters stated that they did not export innersprings to the United States during the POI. See Memorandum to the File, Response to the Department of Commerce’s Quantity and Value Questionnaire from Yang Ching, March 13, 2008; Memorandum to the File, Response to the Department of Commerce’s Quantity and Value Questionnaire from Uu Viet, March 20, 2008, and Memorandum to the File, Response to the Department of Commerce’s Quantity and Value Questionnaire from Dong Bang, March 25, 2008. However, the remaining eight

companies did not respond to the Department’s Q&V questionnaire. The Department issued and tracked its Q&V questionnaire via DHL. According to DHL’s tracking system the remaining eight exporters received the Department’s Q&V questionnaire. Record evidence indicates there were imports into the United States of innersprings from Vietnam. Based on the above facts, the Department preliminarily determines that there were exports of the subject merchandise under investigation from Vietnam producers/exporters that did not respond to the Department’s questionnaire, and we are treating these Vietnam producers/exporters as part of the countrywide entity. Additionally, because we have determined that the companies named above are part of the Vietnam-wide entity, the Vietnam-wide entity is now under investigation. Further, pursuant to section 776(a)(2)(A) of the Act, we find that because the Vietnam-wide entity (including the eight companies discussed above) failed to respond to the Department’s Q&V questionnaire, withheld or failed to provide information in a timely manner or in the form or manner requested by the Department, and otherwise impeded the proceeding, it is appropriate to apply a dumping margin to the Vietnam-wide entity using the facts otherwise available on the record pursuant to section 776(a)(2)(A) of the Act. Additionally, because these parties failed to respond to our requests for information, we find an adverse inference is appropriate.

### Selection of the Adverse Facts Available Rate

In sum, because the Vietnam-wide entity failed to respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate pursuant to section 776(b) of the Act for the Vietnam-wide entity.

In deciding which facts to use as adverse facts available (“AFA”), section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final*

*Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See SAA at 870. See also *Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005).

Generally, it is the Department’s practice to select, as AFA, the highest rate in any segment of the proceeding. See, e.g., *Certain Cased Pencils from the People’s Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 70 FR 76755, 76761 (December 28, 2005) (unchanged in the final results, 71 FR 38366 (July 6, 2006)).

The Court of International Trade (“CIT”) and the Court of Appeals for the Federal Circuit (“Fed. Cir.”) have consistently upheld the Department’s practice. See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (upholding the Department’s presumption that the highest margin was the best information of current margins) (“*Rhone Poulenc*”); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in an LTFV investigation); *Kompass Food Trading International v. United States*, 24 CIT 678, 683–84 (CIT 2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondents’ prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” See *Rhone Poulenc*, 899 F.2d at 1190 (emphasis removed). In this case,

as AFA, the Department has selected 116.31 percent, the highest margin alleged in the petition, as revised in the Petitioner's supplemental responses, and the margin the Department used in the *Initiation Notice*.

### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted "corroborate" to mean that we will, examine the reliability and relevance of the information submitted. *See, e.g., Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554, 5568 (February 4, 2000). Because there are no mandatory respondents, to corroborate the 116.31 percent margin used as AFA for the Vietnam-wide entity, to the extent appropriate information was available, we revisited our pre-initiation analysis of the adequacy and accuracy of the information in the petition. *See* Antidumping Investigation Initiation Checklist: Uncovered Innersprings from the Socialist Republic of Vietnam ("Initiation Checklist") (January 22, 2008). We examined evidence supporting the calculations in the petition and the supplemental information provided by Petitioner prior to initiation to determine the probative value of the margins alleged in the petition. During our pre-initiation analysis, we examined the information used as the basis of export price and normal value ("NV") in the petition, and the calculations used to derive the alleged margins. Also during our pre-initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, which corroborated key elements of the export price and NV calculations. *See id.* We received no comments as to the relevance or probative value of this information. Therefore, the Department finds that the rates derived from the petition and used for purposes of initiation have probative value for the purpose of being selected as the AFA rate assigned to the Vietnam-wide entity.

### Preliminary Determination

The weighted-average dumping margin is as follows:

Manufacturer/exporter	Margin (percent)
Vietnam-Wide Rate .....	116.31

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of innersprings from Vietnam, as described in the "Scope of the Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin indicated in the chart above. The suspension of liquidation will remain in effect until further notice.

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. Under section 735(b)(2) of the Act, if the Department's final determination is affirmative, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of our final determination.

### Public Comment

Case briefs or other written comments on the preliminary determination may be submitted to the Assistant Secretary for Import Administration no later than 50 days after the date of publication of this preliminary determination. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309. Executive summaries should be limited to five pages total, including footnotes. *See id.* Further, we request that parties submitting briefs and rebuttal briefs provide the Department with an electronic copy of the public version of such briefs.

In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case and rebuttal briefs. If a request for a hearing is made

in this investigation, the hearing will tentatively be held two days after the deadline for submitting rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. *See* 19 CFR 351.310(d)(1). Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. *See* 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See id.*

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: July 30, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

[FR Doc. E8-18032 Filed 8-5-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-791-821]

### Notice of Preliminary Determination of Sales at Less Than Fair Value: Uncovered Innerspring Units from South Africa

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

**EFFECTIVE DATE:** August 6, 2008.

**SUMMARY:** We preliminarily determine that imports of uncovered innerspring units from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). Interested parties are invited to comment on this preliminary determination. We intend to make our final determination within 75 days of the date of publication of this preliminary determination pursuant to section 735 of the Act.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov or Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and