

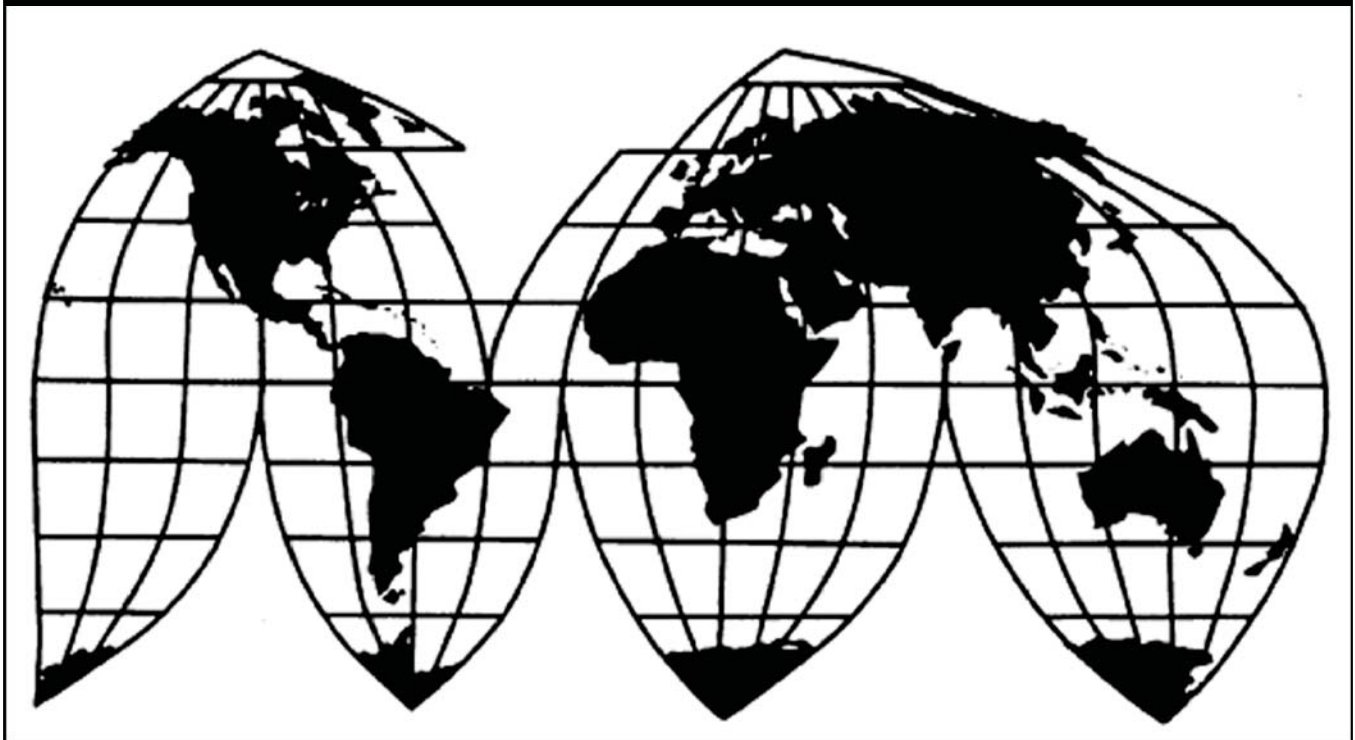
# Multilayered Wood Flooring from China

Investigation Nos. 701-TA-476 and 731-TA-1179 (Preliminary)

Publication 4206

December 2010

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.





# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-476 and 731-TA-1179 (Preliminary)

## MULTILAYERED WOOD FLOORING FROM CHINA

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of multilayered wood flooring, provided for in subheadings 4409.10, 4409.29, 4412.31, 4412.32, 4412.39, 4412.94, 4412.99, 4418.71, 4418.72, 4418.79.00, and 4418.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

### COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### BACKGROUND

These investigations are being instituted in response to a petition filed on October 21, 2010, on behalf of the Coalition for American Hardwood Parity ("CAHP"), an ad hoc association of U.S. manufacturers of multilayered wood flooring. The following companies are members of the CAHP: Anderson Hardwood Floors, LLC, Fountain Inn, SC; Award Hardwood Floors, Wausau, WI; Baker's Creek Wood Floors, Inc., Edwards, MS; From the Forest, Weston, WI; Howell Hardwood Flooring, Dothan, AL; Mannington Mills, Inc., Salem, NJ; Nydree Flooring, Forest, VA; and Shaw Industries Group, Inc., Dalton, GA. Accordingly, effective October 21, 2010, the Commission instituted countervailing duty investigation No. 701-TA-476 and antidumping duty investigation No. 731-TA-1179 (Preliminary).

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of October 27, 2010 (75 FR 66126). The conference was held in Washington, DC, on November 12, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

## IEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of multilayered wood flooring (“MLWF”) from China that are allegedly subsidized and sold in the United States at less than fair value.

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.<sup>1</sup> In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”<sup>2</sup>

### II. BACKGROUND

The petition in these investigations was filed on October 21, 2010, by the Coalition for American Hardwood Parity (“Petitioners” or “CAHP”), an ad hoc association of U.S. manufacturers of MLWF.<sup>3</sup> Petitioners appeared at the staff conference and filed a postconference brief. The North American Laminate Flooring Association (“NALFA”) filed a statement in support of the petition.

Several respondents appeared at the preliminary staff conference and submitted postconference briefs. The China National Forest Products Industry Association (“Chinese Producers’ Association”) participated in the staff conference and submitted a postconference brief. Also filing a joint postconference brief were WEGO Chemical & Mineral Corp.; DPR International, LLC, Swiff Train Co.; Hallmark Hardwoods Inc.; BR Custom Surface, Suncrest Supply; Real Wood Floors, LLC; Galleher Inc.; B&M Noble Co.; Johnson Premium Hardwood Flooring; Wood Flooring International; and Intech Sourcing Inc., (all of which are U.S. importers of MLWF from China), and Dalian Penghong Floor Products Co., (a Chinese producer of MLWF) (collectively, “U.S. Importers”). Representatives from several of the importers participated in the staff conference. Another joint brief was received from Lumber Liquidators Services, LLC (“Lumber Liquidators”); Home Legend, LLC (“Home Legend”); and U.S. Floors, Inc. (“U.S. Floors”) (collectively “Lumber Liquidators”), and these parties participated in the staff conference. Fine Furniture (Shanghai) Ltd., a manufacturer and exporter of MLWF, and J. Michael & Co. LLC, a U.S. importer of MLWF, filed a joint postconference brief, but did not participate in the staff conference.

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<sup>1</sup> 19 U.S.C. § 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

<sup>2</sup> American Lamb Co., 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

<sup>3</sup> The following companies are members of the CAHP: Anderson Hardwood Floors, LLC (“Anderson”), Fountain Inn, South Carolina; Award Hardwood Floors (“Award”), Wausau, Wisconsin; Baker’s Creek Wood Floors, Inc. (“Baker’s Creek”), Edwards, Mississippi; From the Forest, Weston, Wisconsin; Howell Hardwood Flooring, (“Howell”), Dothan, Alabama; Mannington Mills, Inc. (“Mannington”), Salem, New Jersey; Nydree Flooring (“Nydree”), Forest, Virginia; and Shaw Industries Group, Inc. (“Shaw”), Dalton, Georgia.

U.S. industry data are based on questionnaire responses of 11 firms that accounted for nearly all known U.S. production of MLWF during 2009.<sup>4 5</sup> U.S. imports in the staff report are based on responses to the Commission’s U.S. importer questionnaires by 50 companies, representing the majority of U.S. imports from China during the period of investigation.<sup>6</sup> The Commission received responses from 31 firms accounting for a majority of 2009 production of MLWF in China and the vast majority of exports of MLWF to the United States from China.<sup>7</sup>

### III. DOMESTIC LIKE PRODUCT

#### A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>8</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>9</sup> In turn, the Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ... .”<sup>10</sup>

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<sup>4</sup> CR at I-4, PR at I-3. Respondents ask the Commission to take adverse inferences against the domestic industry because at the time the parties filed their briefs, the Commission (1) had not received a U.S. producer response from the \*\*\*, and (2) had received a questionnaire response from \*\*\*. Chinese Producers’ Association’s Postconference Brief at 7-9, U.S. Importers’ Postconference Brief at 14. At the outset, we note that \*\*\* in fact provided a U.S. producer questionnaire response, albeit after the briefs were filed. CR at III-1, PR at III-1. Given the short amount of time to complete preliminary investigations, it is not uncommon for the Commission to receive questionnaire responses late in the proceeding, particularly from companies that are not parties to the proceeding, as in this case. In fact, the statutory scheme anticipates this by keeping the record of an investigation open until the day of the vote. See 19 U.S.C. 1673b; Compare 19 U.S.C. 1677m(g) (requiring in final phase investigations that the record be closed so parties can comment on all factual information). Accordingly, we decline to take adverse inferences against any U.S. producer. In any final phase investigations, all parties will have a full opportunity to comment on any of the information submitted on the record.

<sup>5</sup> Chairman Okun notes that the statute authorizes the Commission to take adverse inferences but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” Uruguay Round Agreements Act Statement of Administrative Action, H.R. Rep. 103-316, vol. I at 869 (1994).

<sup>6</sup> CR at IV-1, PR at IV-1. The period of investigation in the preliminary phase of these investigations covers the full-years 2007, 2008, and 2009, as well as the first nine months of 2010.

<sup>7</sup> CR at VII-1, PR at VII-1.

<sup>8</sup> 19 U.S.C. § 1677(4)(A).

<sup>9</sup> 19 U.S.C. § 1677(4)(A).

<sup>10</sup> 19 U.S.C. § 1677(10).

## **B. Product Description**

In its notices of initiation, the U.S. Department of Commerce (“Commerce”) defined the imported merchandise within the scope of the investigations as follows:

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)<sup>11</sup> in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, e.g., “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

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

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

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

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<sup>11</sup> A “veneer” is a thin slice of wood that is rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

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

### **C. Parties' Arguments**

U.S. Importers argue that the Commission should define the domestic like product to include products other than MLWF because there are no clear dividing lines between MLWF and substitute products such as solid wood flooring and laminates.<sup>12</sup> Petitioners argue that there are clear dividing lines between MLWF and solid wood flooring and laminates and that they should not be included in the like product.

### **D. Analysis**

The Commission must accept the determination of Commerce as to the scope of the imported merchandise alleged to be subsidized or sold at less than fair value,<sup>13</sup> but the Commission may, where appropriate, include domestic articles in the domestic like product in addition to those described in the scope.<sup>14</sup> In past investigations, the Commission has based its like product determination on a six factor test that compared domestically produced products within the scope to those outside the scope.<sup>15</sup>

We address two domestic like product issues under the six factor test: (1) whether to expand the domestic like product to include wood flooring; and (2) whether to expand the domestic like product to include laminate flooring products.<sup>16</sup> As we explain below, for purposes of these preliminary investigations, we do not define the domestic like product more broadly than the scope of these investigations to include solid wood flooring or laminate. Instead, we define a single domestic like product that is coextensive with the scope of these investigations.

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<sup>12</sup> U.S. Importers' Postconference Brief at 2-13. The Chinese Producers' Association and Lumber Liquidators do not challenge Petitioners' definition of the domestic like product for purposes of the preliminary phase of the investigations. Chinese Producers' Association's Postconference Brief at 3; Lumber Liquidators' Postconference Brief at 8.

<sup>13</sup> See USEC, Inc. v. United States, Slip. Op. 01-1421 (Fed. Cir. Apr. 25, 2005) at 9 ("The ITC may not modify the class or kind of imported merchandise examined by Commerce.").

<sup>14</sup> See, e.g., Pure Magnesium from China and Israel, Invs. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 (Nov. 2001) at 8, n. 34; Torrington Co. v. United States, 747 F.Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) (holding that the Commission is not legally required to limit the domestic like product to the product advocated by the petitioner, co-extensive with the scope).

<sup>15</sup> See Superalloy Degassed Chromium, USITC Pub. 3768 at 7; Aluminum Plate from South Africa, USITC Pub. 3734 at 7; Ironing Tables and Certain Parts Thereof from China, Inv. No. 731-TA-1047 (Final), USITC Pub. 3711 at 6-7 (Jul. 2004); Certain Wax/Resin Thermal Transfer Ribbons from France and Japan, Invs. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 at 8 (Apr. 2004).

<sup>16</sup> U.S. Importers also suggested that the like product should be expanded to include vinyl wood-look flooring. U.S. Importers' Postconference Brief at 13. Based on the limited record in these investigations, although there may be some basic interchangeability between the two products, we do not expand the definition of the domestic like product to include vinyl-wood look flooring. Vinyl flooring does not contain any form of wood fiber and therefore has very different physical characteristics and production processes than MLWF, is produced in completely separate manufacturing facilities and with distinct production employees from MLWF, and is usually less expensive than MLWF. CR at I-12-I-14, PR at I-9-I-10; U.S. Importers' Postconference Brief at 12-13.

(1) **Whether to Expand the Domestic Like Product to Include Solid Wood Flooring**

*Physical characteristics and uses.* MLWF is a type of wood flooring product fabricated by using multiple layers of wood veneer. It is typically composed of between two and ten plies that include a core sandwiched between other veneer layers and a face veneer surface of a desired wood species and finish.<sup>17</sup> The most common thicknesses of MLWF are 3/8 inch and 1/2 inch. Solid wood flooring is made by sawing logs directly into lumber that is sized, graded, and profiled with tongue and groove edges and then may be finished prior to installation.<sup>18</sup> The standard thickness for solid wood flooring is 3/4 inch. Although MLWF and solid wood flooring are both wood products that may be finished prior to installation, solid wood flooring is constructed from a single piece of wood and thus is less dimensionally stable than MLWF and much more prone to expansion and contraction from moisture and temperature fluctuations.<sup>19</sup> Accordingly, MLWF can be installed below grade (e.g., in a basement) or in areas with high humidity where solid wood flooring is not typically suitable.<sup>20</sup>

*Interchangeability.* There is record evidence that MLWF and solid wood flooring generally are physically interchangeable, particularly in new construction or for housing additions.<sup>21</sup> Unlike solid wood flooring, however, which typically can be installed by nailing over a wood underlayment, certain types of MLWF can be glued directly onto a concrete substrate or installed using a glueless click and lock system.<sup>22</sup> MLWF also lends itself for use in remodeling projects where a thinner wood product is more suitable because of doors that might otherwise have to be trimmed to fit thicker flooring.<sup>23</sup> The products are not interchangeable, however, in below-grade applications, which permit the use of MLWF only.

*Channels of Distribution.* The available record evidence indicates that the majority of all wood flooring products are sold through distributors.<sup>24</sup>

*Customer and producer perceptions.* Respondents argue that MLWF and solid wood flooring provide the same type of wood “look” and ambience that consumers appreciate.<sup>25</sup> Petitioners argue that although MLWF has gained greater market acceptance in recent years in large part due to the fact that it is easier to install and thereby more readily lends itself to do-it-yourself (“DIY”) home projects, solid wood flooring still retains an aesthetic panache in the perception of the consuming public that MLWF has yet to achieve.<sup>26</sup>

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<sup>17</sup> CR at I-9, PR at I-7.

<sup>18</sup> CR at I-12, PR at I-9.

<sup>19</sup> CR at I-10, PR at I-8.

<sup>20</sup> CR at I-10, I-12-I-13, PR at I-8-I-10.

<sup>21</sup> CR at I-10, I-12, PR at I-8-I-9.

<sup>22</sup> CR at I-10, PR at I-8.

<sup>23</sup> CR at I-10, PR at I-8.

<sup>24</sup> Petition at 26.

<sup>25</sup> U.S. Importers’ Postconference Brief at 11-12.

<sup>26</sup> Petition at 24-25, n.32.

*Manufacturing Facilities, Production Processes, and Employees.* The parties agree that the manufacturing processes to produce MLWF and solid wood flooring are dissimilar.<sup>27</sup> Solid wood flooring uses solid lumber, whereas MLWF is an engineered product built by the joining of a core and various plies of veneer peeled from a log and/or sliced from lumber.<sup>28</sup> The record also does not reflect any meaningful overlap of production facilities or employees used to produce MLWF and solid wood flooring.<sup>29</sup>

*Price.* The limited evidence on the record of these investigations shows that there is some overlap in pricing between MLWF and solid wood flooring.<sup>30</sup>

Thus, there are sharp distinctions between MLWF and solid wood flooring in physical characteristics, some uses, production processes, and manufacturing facilities and employees. There is interchangeability in some but not all applications. Evidence regarding customer and producer perceptions is mixed, and the limited evidence on the record appears to show overlap in channels of distribution and pricing for solid wood flooring and MLWF.

Accordingly, we find that a clear dividing line can be drawn separating MLWF and solid wood flooring. We therefore do not expand the domestic like product to include solid wood flooring.

## **2. Whether to Expand the Domestic Like Product to Include Laminate Flooring**

*Physical characteristics and uses.* MLWF is a wood flooring product consisting of multiple layers of wood veneer. It is typically composed of between two and ten plies that include a core sandwiched between other veneer layers and a face veneer surface of a desired wood species and finish.<sup>31</sup> Laminate flooring is typically made from a medium or high density fiberboard onto which a melamine impregnated printed paper or plastic overlay is pressed.<sup>32</sup> The panels are cut to size and profiled with a tongue and groove or click and lock system for installation. Laminate can be installed on any type of existing subfloor without interfering with the flooring height throughout the rest of the building.<sup>33</sup> Unlike MLWF, which utilizes a wood face veneer, laminates utilize a printed surface with photographically reproduced images of wood of a particular wood species.<sup>34</sup> The manufacturing process can, and often does, also imprint a texture that simulates the look and feel of wood. Laminate flooring is available in a wide variety of wood-like designs and thicknesses. Unlike MLWF, which has a separate finishing process, laminates incorporate the finishing directly into the manufacturing of the material.<sup>35</sup>

*Interchangeability.* There is record evidence that MLWF and laminate are generally interchangeable, particularly when consumers are in the market for a particular look for their flooring and

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<sup>27</sup> CR at I-13, PR at I-10; Petition at 24-25, n.32; U.S. Importers' Postconference Brief at 12.

<sup>28</sup> CR at I-13, PR at I-10.

<sup>29</sup> CR at I-13, PR at I-10.

<sup>30</sup> U.S. Importers' Postconference Brief at 12-13.

<sup>31</sup> CR at I-9, PR at I-7.

<sup>32</sup> CR at I-13, PR at I-10. As noted by Petitioners and Respondents, the interior core of MLWF sometimes contains fiberboard but, unlike laminates which use a paper overlay, MLWF utilizes wood veneer as its wear layer. CR at I-14, PR at I-11.

<sup>33</sup> U.S. Importers' Postconference Brief at 11.

<sup>34</sup> CR at I-13, PR at I-10.

<sup>35</sup> CR at I-13, PR at I-10.



are not as concerned about the material itself.<sup>36</sup> Laminates may approximate the look of wood flooring. There is also evidence, however, that for consumers desiring a floor made of wood, such as MLWF, products like laminates that merely provide a “wood look” are not an acceptable substitute.<sup>37</sup>

*Channels of Distribution.* The evidence of record indicates that the majority of all wood flooring products are sold through distributors.<sup>38</sup>

*Customer and producer perceptions.* Respondents argue that MLWF and laminate provide the same type of wood “look” and feel that consumers appreciate.<sup>39</sup> Petitioners argue that purchasers perceive laminate as a distinct product from wood flooring and will seek out one or the other.<sup>40</sup> The fact that customers are generally willing to pay more for MLWF than laminate products indicates that customers value attributes of the former over the latter, and therefore view them as distinct.

*Manufacturing Facilities, Production Processes, and Employees.* MLWF and laminates are both made from wood that originates in log form, but the type of wood material produced from the raw logs and used in the manufacture of each product is markedly different.<sup>41</sup> Whereas MLWF uses veneer peeled from a log and/or sliced from lumber, wood laminates utilize manufacturing residues to make the MDF or HDF base onto which the printed overlay is adhered.<sup>42</sup> The types of logs (or residues) needed for each product and the basic forms in which the wood material is supplied are usually quite different.<sup>43</sup> The record also does not reflect any overlap of production facilities or employees used to produce MLWF and laminates.<sup>44</sup>

*Price.* Although there may be some overlap in pricing depending on the type of MLWF or laminate, laminate is generally less expensive than MLWF.<sup>45</sup> Consumers with a limited budget may choose a laminate rather than a more expensive MLWF in order to save money.

Although the final products tend to resemble each other, there are differences in the physical characteristics of MLWF and laminates that limit the interchangeability of the two products. Specifically, MLWF provides an option for purchasers desiring a floor made of wood, whereas laminates provide only a “wood look,” which may be less appealing to customers. Moreover, the production processes for the two products are dissimilar, and the manufacturing facilities and employees are distinct. The record shows an overlap in channels of distribution for laminate and MLWF. Finally, laminates are generally less expensive than MLWF, and the difference in price between the two products may motivate a purchaser not driven primarily by aesthetic characteristics to choose a laminate over MLWF.

Accordingly, we find that a clear dividing line can be drawn separating MLWF and laminates. We therefore do not expand the domestic like product to include laminate flooring.

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<sup>36</sup> CR at I-14, PR at I-11.

<sup>37</sup> Petitioners’ Postconference Brief at 6.

<sup>38</sup> Petition at 26.

<sup>39</sup> U.S. Importers’ Postconference Brief at 11-12.

<sup>40</sup> Petitioners’ Postconference Brief at 6.

<sup>41</sup> CR at I-13, PR at I-10.

<sup>42</sup> CR at I-13-I-14, PR at I-10.

<sup>43</sup> CR at I-13, PR at I-10.

<sup>44</sup> Petitioners’ Postconference Brief at 5.

<sup>45</sup> Petitioners’ Postconference Brief at 6-7; U.S. Importers’ Postconference Brief at 12-13.

#### IV. DOMESTIC INDUSTRY

The domestic industry is defined as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>46</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

##### A. Sufficient Production-Related Activities

To be included in the domestic industry, the statute requires that a company be a producer of a domestic like product in the United States.<sup>47</sup> Petitioners ask the Commission to determine that there is one domestic industry comprised of the U.S. producers that manufacture MLWF, as defined by the scope of the investigations. Petitioners further argue, however, that U.S. companies that merely finish imported unfinished MLWF and do not manufacture the underlying wood product, \*\*\*,<sup>48</sup> should not be included within the definition of “industry.”<sup>49</sup> Lumber Liquidators asserts that assemblers/finishers of MLWF in the United States should be included as part of the domestic industry and provided information from \*\*\* addressing the Commission’s six-factor framework for a determination whether a firm engages in sufficient production-related activities.<sup>50</sup>

When assessing the nature and extent of production-related activities associated with particular operations, the Commission usually considers the following six factors:

- (1) source and extent of the firm’s capital investment;
- (2) technical expertise involved in the production activities;
- (3) value added to the product;
- (4) employment levels;
- (5) quantity, type and source of parts; and
- (6) any other costs and activities directly leading to production of the like product.<sup>51</sup>

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<sup>46</sup> 19 U.S.C. § 1677(4)(A).

<sup>47</sup> 19 U.S.C. § 1677(4)(A).

<sup>48</sup> The record in this preliminary phase does not indicate the existence of any domestic assembler/finisher other than U.S. Floors.

<sup>49</sup> Petitioners’ Postconference Brief at 8, n.21. Although the footnote reads that finishers “should be included” within the definition of the domestic industry, from the context of the footnote it appears that the sentence should read “should not be included within the definition of the domestic industry.”

<sup>50</sup> Lumber Liquidators’ Postconference Brief at 9-10 & Exhibit 6; Tr. at 232-233 (Dossche).

<sup>51</sup> See, e.g., Lightweight Thermal Paper from China, Germany, and Korea, Inv. No. 701-TA-451 and 731-TA-1126 to 1128 (Prelim.), USITC Pub. 3964 at n.76 (Nov. 2007); Diamond Sawblades and Parts Thereof from China and Korea, Invs. Nos. 731-TA-1092 to 1093 (Final), USITC Pub. 3862 at 8-11 (Jul. 2006) (assemblers included in the industry); Certain Frozen or Canned Warmwater Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Invs. Nos. 731-TA-1063-68 (Final), USITC Pub. 3748 at 12-14 (Jan. 2005) (breeding, marinating/saucing, and skewering not viewed as sufficient to constitute domestic production) (but washing, sorting, cooking, deheading, grading, removing the tail, packaging, machine peeling, deveining, and freezing all constituted domestic production); Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 at 10-11 (Apr. 2002) (packers included in the industry along with growers); Honey from Argentina and China, Invs. Nos. 701-TA-402 and 731-TA-892-893 (Final), USITC Pub. 3470 (Nov. 2001) (honey packers included in the industry along with beekeepers); Pure Magnesium from China and Israel, Invs. Nos. 701-TA-403 and 731-TA-895-96 (Final),  
(continued...)

Given the sui generis nature of this inquiry, no single factor is determinative, and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation.<sup>52</sup>

The only information on the record of these investigations regarding the nature and extent of production-related activities associated with finishing operations was provided by U.S. Floors.<sup>53</sup>

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<sup>51</sup> (...continued)

USITC Pub. 3467 at 9-11 (Nov. 2001) (grinding was sufficient production-related activity to constitute “production,” although the Commission majority noted that the evidence was mixed).

<sup>52</sup> For example, the Commission relied on these factors in one investigation to assess whether U.S. slitters of jumbo rolls imported from subject countries engaged in sufficient production-related activities to warrant treating the resulting thermal transfer ribbon products as shipments of the domestic like product rather than as shipments of subject merchandise. See, e.g., International Imaging Materials, Inc. v. United States, 30 CIT 1181, 1187-89 (2006) (affirming the Commission’s finding in Certain Wax and Wax/Resin Thermal Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 (Apr. 2004), where the scope included both jumbo (un-slit) rolls of thermal transfer ribbons and slit thermal transfer ribbons, that “slitters” engaged in sufficient product-related activities when transforming jumbo rolls imported from subject countries into finished thermal transfer ribbons to constitute domestic production. The Court affirmed the Commission’s treatment of the resulting products as shipments of the domestic like product). See, also, DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Final), USITC Pub. 3616 at 11 (Aug. 2003) (In an investigation where the scope included cased and uncased DRAMs, the Commission found that fabricating uncased DRAMs and casing DRAMs each were individually significant production operations. The Commission rejected a party’s request to treat uncased DRAMs fabricated in third countries but cased in the United States as shipments of nonsubject imports. Instead, based on its finding that casing operations constituted significant production-related activities, the Commission treated DRAMs fabricated in third countries but cased in the United States as shipments of the domestic like product).

<sup>53</sup> At the conference, the representative from U.S. Floors described its operations as follows:

My facility has both what we call proof filing and staining and finishing capabilities, which means that I don't start with pressing veneer onto plywood and then ripping it into planks. I buy the plywood. I buy the four-by-four sheets out of China or I buy four-by-four sheets of cork flooring out of Portugal or I buy unfinished Jatoba Brazilian cherry planks out of Brazil and I bring these to my plants. And then in my plants, we have the capabilities of what Mr. Hubbard was explaining, as well, profiling the rocking mechanism into the cork flooring, profiling it into the engineered wood flooring that we -- the sheets that we buy from China or profiling a tooling groove into the solid Jatoba Brazilian cherry that we buy from Brazil. And then this product goes to our staining and finishing line, where we apply either a stain color and then the finishing layers to give the scratch resistance that -- and layers that the product needs. So, we actually need in our process access to unfinished, all finished type of raw materials. It's like an assembly plant. It's like a BMW assembly plant at Spartanburg that makes everything, but imports the engines from Germany. I need these engines, so then I can assemble it and I can finish it and stain it and then make it available as a finished product to the U.S. market.

Tr. at 232-233 (Dossche).

U.S. Floors has made a \*\*\*.<sup>54</sup> \*\*\*.<sup>55</sup> \*\*\*.<sup>56</sup> \*\*\*.<sup>57</sup> \*\*\*.<sup>58</sup> Based on the information provided by U.S. Floors, we include assemblers/finishers in the definition of the domestic industry.<sup>59</sup>

## **B. Related Parties**

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>60</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>61</sup>

The record indicates that six domestic producers are subject to possible exclusion under the related parties provision. Domestic producers \*\*\* are related parties because each firm imported subject

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<sup>54</sup> Lumber Liquidators' Postconference Brief at Exhibit 6.

<sup>55</sup> Lumber Liquidators' Postconference Brief at Exhibit 6.

<sup>56</sup> Lumber Liquidators' Postconference Brief at Exhibit 6.

<sup>57</sup> Lumber Liquidators' Postconference Brief at Exhibit 6.

<sup>58</sup> Lumber Liquidators' Postconference Brief at Exhibit 6. At the conference, Mr. Dossche of U.S. Floors was asked why U.S. Floors does not source any material from the United States, to which he replied, "well, we would have to buy from my competitors, which would make it very difficult. I could ultimately do that. My manufacturing equipment would allow me to do that. But, since I don't have the pressing capacity, I would have to find companies who can supply that to me and most of them would be my competitors." Tr. at 234 (Dossche).

<sup>59</sup> Commissioner Lane notes that the record in these investigations, regarding the nature and extent of production related activities associated with finishing operations, was very limited. Commissioner Lane further notes that including or excluding the finishers as part of the domestic industry would most likely have little effect on the domestic industry determination, and has not materially affected the data set that she has examined in her injury analysis. However, she is reserving judgment until the final investigation on whether to include U.S. companies that finish imported unfinished MLWF in the definition of the domestic industry.

<sup>60</sup> 19 U.S.C. § 1677(4)(B).

<sup>61</sup> The primary factors we have examined in deciding whether appropriate circumstances exist to exclude a related party are as follows: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), *aff'd mem.*, 991 F.2d 809 (Fed. Cir. 1993). We have also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in *Allied Mineral Products, Inc. v. United States*, 28 CIT 1861, 1864 (2004) ("The most significant factor considered by the Commission in making the 'appropriate circumstances' determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise."); *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 12 (Ct. Int'l Trade 2001) ("the provision's purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters."), *aff'd*, 34 Fed. Appx. 725 (Fed. Cir. April 22, 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry").

merchandise during the period of investigation.<sup>62</sup> Petitioners argue that there is no reason at this time to exclude any producer from the domestic industry based on the statutory related party provision.<sup>63</sup> Respondents make no arguments concerning related party issues.

\*\*\*. \*\*\* was the \*\*\* largest domestic producer in 2009, accounting for \*\*\* percent of reported domestic production. It is a petitioner in these investigations.<sup>64</sup> According to \*\*\*, it imported subject merchandise \*\*\*.<sup>65</sup>

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing MLWF. It is a petitioner, and its interests lie more with domestic production than with importing. Both absolutely and compared to its domestic production, its imports over the period of investigation were \*\*\*, and dropped to \*\*\* in 2009 and interim 2010.<sup>66</sup> No party has argued that \*\*\* should be excluded from the domestic industry.<sup>67</sup> <sup>68</sup> Moreover, its U.S. operations do not appear to have benefitted financially from its low volumes of imports, as its operating performance was \*\*\*.<sup>69</sup>

\*\*\*. \*\*\* was \*\*\* domestic producer in 2009, accounting for \*\*\* percent of reported domestic production in that year.<sup>70</sup> It \*\*\* on the petition.<sup>71</sup> \*\*\* stated that it imported subject merchandise because \*\*\*.<sup>72</sup>

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing MLWF. Based on the data, \*\*\* interests appear to lie in domestic production.<sup>73</sup> Its ratio of subject imports to its domestic production was \*\*\*.<sup>74</sup> It is the \*\*\* domestic producer of MLWF, and its

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<sup>62</sup> See 19 U.S.C. § 1677(4)(B)(I); CR/PR Table III-6.

<sup>63</sup> Petitioners' Postconference Brief at 8-9.

<sup>64</sup> CR/PR at Table III-1.

<sup>65</sup> \*\*\* U.S. Importers' Questionnaire Response at Question II-4.

<sup>66</sup> \*\*\* imports of subject merchandise increased from \*\*\* square feet in 2007 to \*\*\* square feet in 2008, but it had \*\*\* subject imports in 2009 or interim 2010. Its ratio of subject imports to domestic production was \*\*\* percent in 2007, \*\*\* percent in 2008, and \*\*\* in 2009 and interim 2010. CR/PR at Table III-4.

<sup>67</sup> Consistent with her practice in past investigations and reviews, Commissioner Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the domestic like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

<sup>68</sup> For purposes of these preliminary investigations, Commissioner Pinkert does not rely upon related parties' financial performance as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry and relies instead on other information relevant to this issue. The present record is not sufficient to link the related parties' profitability on U.S. operations to any specific benefit they derive from importing or from their relationships to foreign producers. See *Allied Mineral Products*, Slip Op. 04-139, at 8. For the final investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether related parties are benefitting financially from their status as related parties.

<sup>69</sup> CR/PR at Table VI-2. \*\*\* ratio of operating income to net sales was \*\*\*. CR/PR at Table VI-2.

<sup>70</sup> CR/PR at Table III-1.

<sup>71</sup> CR/PR at Table III-1.

<sup>72</sup> \*\*\* U.S. Importers' Questionnaire Response at Question II-4.

<sup>73</sup> \*\*\* reported imports of subject merchandise increased from \*\*\* square feet in 2007 to \*\*\* square feet in 2008, and then declined to \*\*\* square feet in 2009. CR/PR at Table III-6. Its imports of subject merchandise were \*\*\* square feet in interim 2009 and \*\*\* square feet in interim 2010. CR/PR at Table III-6.

<sup>74</sup> \*\*\* ratio of subject imports to domestic production increased from \*\*\* percent in 2007 to \*\*\* percent in 2008, and then declined to \*\*\* percent in 2009. CR/PR at Table III-6. Its ratio of subject imports to domestic production  
(continued...)

exclusion would skew the domestic industry's data. No party has argued that \*\*\* should be excluded from the domestic industry. In addition, it does not appear that \*\*\* derived a significant benefit from its importation of the subject merchandise. Its operating income and operating income trends were similar to those of other domestic producers, decreasing overall from 2007 to 2009.<sup>75</sup> Despite the fact that the domestic industry's operating margins were better in interim 2010 than in interim 2009, \*\*\* operating margins were at their lowest levels for the period in interim 2010 when its imports as a ratio to its domestic production reached their highest level.

\*\*\*. \*\*\* was the \*\*\* largest domestic producer in 2009, accounting for \*\*\* percent of domestic production in that year.<sup>76</sup> It is a petitioner in these investigations.<sup>77</sup> \*\*\* stated that it imported subject merchandise because of \*\*\*.<sup>78</sup>

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing MLWF. It is a petitioner, and its interests lie more with domestic production than with importing.<sup>79</sup> Compared to its domestic production, the volume of its imports was \*\*\*.<sup>80</sup> \*\*\* is a \*\*\* domestic producer, and its exclusion could skew the data for the domestic industry. Moreover, no party has argued that \*\*\* should be excluded from the domestic industry. Finally, its U.S. operations also do not appear to have benefitted financially from its imports, as its financial results were \*\*\*.<sup>81</sup>

\*\*\*. \*\*\* was the \*\*\* largest domestic producer in 2009, accounting for \*\*\* percent of domestic production in that year.<sup>82</sup> It supports the petition.<sup>83</sup> \*\*\* stated that it imported subject merchandise due to \*\*\*.<sup>84</sup>

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing MLWF. Based on the data, its interests appears to lie more with domestic production than with importing.<sup>85</sup> The volume of its imports was \*\*\*.<sup>86</sup> Moreover, no party has argued that \*\*\* should be excluded from the domestic industry. Finally, its U.S. operations also do not appear to have benefitted

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<sup>74</sup> (...continued)

was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010. CR/PR at Table III-6.

<sup>75</sup> \*\*\* ratio of operating income to net sales was \*\*\*. CR/PR at Table VI-2.

<sup>76</sup> CR/PR at Table III-1.

<sup>77</sup> CR at I-1, PR at I-1.

<sup>78</sup> \*\*\* U.S. Importers' Questionnaire Response at Question II-4.

<sup>79</sup> \*\*\* imports of subject merchandise declined from \*\*\* square feet in 2007 to \*\*\* square feet in 2008 and \*\*\* square feet in 2009, and were \*\*\* square feet in interim 2009 and \*\*\* square feet in interim 2010. CR/PR at Table III-6.

<sup>80</sup> \*\*\* ratio of subject imports to domestic production declined from \*\*\* percent in 2007 to \*\*\* percent in 2008, before increasing to \*\*\* percent in 2009. CR/PR at Table III-6. Its ratio of subject imports to domestic production was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010. CR/PR at Table III-6.

<sup>81</sup> \*\*\* ratio of operating income to net sales was \*\*\* in 2007, \*\*\* in 2008, and \*\*\* in 2009, and was \*\*\* in interim 2009 and \*\*\* in interim 2010. CR/PR at Table VI-2.

<sup>82</sup> CR/PR at Table III-1.

<sup>83</sup> CR/PR at Table III-1.

<sup>84</sup> \*\*\* U.S. Importers' Questionnaire Response at Question II-4.

<sup>85</sup> CR/PR at Table III-6. \*\*\*. CR/PR at Table III-1. \*\*\* imports of subject merchandise declined from \*\*\* square feet in 2008 to \*\*\* square feet in 2009, and was \*\*\* square feet in interim 2009 and \*\*\* square feet in interim 2010. CR/PR at Table III-6

<sup>86</sup> \*\*\* ratio of subject imports to domestic production was not insignificant relative to its production, but declined from \*\*\* percent in 2008 to \*\*\* percent in 2009, \*\*\* percent in interim 2009, and \*\*\* percent in interim 2010. CR/PR at Table III-6.

financially from its volumes of imports, as its financial results were \*\*\* throughout the period of investigation.<sup>87</sup>

\*\*\*. \*\*\* was the \*\*\* largest domestic producer in 2009, accounting for \*\*\* percent of domestic production in that year.<sup>88</sup> It supports the petition.<sup>89</sup> According to \*\*\*, it imported subject merchandise due to \*\*\*.<sup>90</sup>

We find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry producing MLWF. Based on the data, its interests appear to lie more with domestic production than with importing. The volume of its imports was \*\*\* both absolutely and relative to its domestic production.<sup>91</sup> Moreover, no party has argued that \*\*\* should be excluded from the domestic industry. Finally, it is unclear if \*\*\* U.S. operations benefitted financially from its low volumes of imports, as it did not provide usable financial data.<sup>92</sup> Because \*\*\* provided no usable financial data, its exclusion would be moot to that extent at least.

\*\*\*. \*\*\* was one of the smallest domestic producers in 2009, accounting for only \*\*\* percent of domestic production in that year.<sup>93</sup> It \*\*\* the petition.<sup>94</sup> \*\*\* stated that it imported subject merchandise to \*\*\*.<sup>95</sup>

On balance, we find that appropriate circumstances do not exist to exclude \*\*\* from the domestic industry. On the one hand, \*\*\*.<sup>96</sup> On the other hand, the company \*\*\*. As U.S. Floors' domestic production ramped up, \*\*\*.<sup>97</sup> In addition, it is unclear whether \*\*\* derived a significant financial benefit from its importation of the subject merchandise. Its operating margins were \*\*\* the industry average in 2009, but were \*\*\* the industry average in interim 2010.<sup>98</sup> Given this, as well as the fact that \*\*\* accounted for less than \*\*\* percent of domestic production in 2009, inclusion or exclusion of this company would not skew the data for the domestic industry.<sup>99</sup>

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<sup>87</sup> \*\*\* ratio of operating income to net sales was \*\*\* in 2008, \*\*\* in 2009, \*\*\* in interim 2009, and \*\*\* in interim 2010. CR/PR at Table VI-2.

<sup>88</sup> CR/PR at Table III-1.

<sup>89</sup> CR/PR at Table III-1.

<sup>90</sup> \*\*\* U.S. Importers' Questionnaire Response at Question II-4.

<sup>91</sup> \*\*\* imports of subject merchandise declined from \*\*\* square feet in 2007 to \*\*\* square feet in 2008 and \*\*\* square feet in 2009. They were \*\*\* square feet in interim 2009 and \*\*\* square feet in interim 2010. CR/PR at Table III-6. \*\*\* ratio of subject imports to domestic production increased from \*\*\* percent in 2007 to \*\*\* percent in 2008, before declining to \*\*\* percent in 2009. CR/PR at Table III-6. Its ratio of subject imports to domestic production was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010. CR/PR at Table III-6.

<sup>92</sup> CR at VI-1, n.1, PR at VI-1, n.1.

<sup>93</sup> CR/PR at Table III-1.

<sup>94</sup> CR/PR at Table-III-1.

<sup>95</sup> \*\*\* U.S. Importers' Questionnaire Response at Question II-4.

<sup>96</sup> CR/PR at Table III-6. \*\*\* imports of subject merchandise were \*\*\* square feet in 2007, \*\*\* square feet in 2009, and \*\*\* square feet in 2009, and were \*\*\* square feet in interim 2009 and \*\*\* square feet in interim 2010. CR/PR at Table III-6. \*\*\* ratio of subject imports to domestic production was \*\*\* percent in 2009. Its ratio of subject imports to domestic production was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010. CR/PR at Table III-6.

<sup>97</sup> CR/PR at Table III-6.

<sup>98</sup> \*\*\* ratio of operating income to net sales was \*\*\* in 2009, and was \*\*\* in interim 2009, and \*\*\* in interim 2010. CR/PR at Table VI-2.

<sup>99</sup> CR/PR at Table III-1.

Accordingly, we find that appropriate circumstances do not exist for the exclusion of any of the related party producers from the domestic industry. We thus define the domestic industry to include all U.S. producers of MLWF, including assemblers/finishers.

## V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS<sup>100</sup>

### A. Legal Standard

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.<sup>101</sup> In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>102</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>103</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>104</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>105</sup>

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,<sup>106</sup> it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.<sup>107</sup> In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.<sup>108</sup>

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<sup>100</sup> Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. Based on the importer questionnaire data, subject imports from China represented 86.6 percent of total imports of MLWF, by quantity, between October 1, 2009 and September 31, 2010. CR at IV-5, n.3, PR at IV-4, n.3.

<sup>101</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>102</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor ... {a}nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

<sup>103</sup> 19 U.S.C. § 1677(7)(A).

<sup>104</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>105</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>106</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>107</sup> Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’g 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

<sup>108</sup> The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in

(continued...)



In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.<sup>109</sup> In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.<sup>110</sup> Nor does the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.<sup>111</sup> It is clear that the existence of injury caused by other factors does not compel a negative determination.<sup>112</sup>

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission

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<sup>108</sup> (...continued)

Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred “by reason of” the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

<sup>109</sup> Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

<sup>110</sup> SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

<sup>111</sup> S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

<sup>112</sup> See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

“ensure{s} that it is not attributing injury from other sources to the subject imports.”<sup>113</sup> <sup>114</sup> Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”<sup>115</sup>

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.<sup>116</sup> The additional “replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports,’” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.<sup>117</sup> Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S.

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<sup>113</sup> Mittal Steel, 542 F.3d at 877-78; *see also id.* at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination ... . {and has} broad discretion with respect to its choice of methodology.”) *citing* United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

<sup>114</sup> Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance on presumptions or rigid formulas. Mittal explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, nonsubject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether nonsubject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

<sup>115</sup> Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also* Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

<sup>116</sup> Mittal Steel, 542 F.3d at 875-79.

<sup>117</sup> Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.<sup>118 119</sup>

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.<sup>120</sup>

## **B. Conditions of Competition and the Business Cycle**

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

### **1. Demand Conditions**

U.S. demand for wood flooring is closely tied to U.S. residential housing construction and remodeling, which account for the vast majority of sales.<sup>121</sup> In particular, demand for MLWF depends on housing starts, mortgage rates, disposable income, and remodeling activity.<sup>122</sup>

Due to the subprime mortgage crisis, housing starts have fallen precipitously since 2007.<sup>123</sup> Although there was some improvement in housing starts in late 2009 and the first half of 2010, Petitioners assert that this was due to the federal home buyer tax credit, which has since expired, and does not represent the early signs of a long term recovery. Petitioners also argue that spending on remodeling activity, another key macroeconomic indicator for this industry, declined substantially during the period of investigation.<sup>124</sup>

Apparent U.S. consumption of MLWF reflected the declines in these economic factors and decreased overall during the period examined. Apparent U.S. consumption, by quantity, increased from \*\*\* million square feet in 2007 to \*\*\* million square feet in 2008, before declining to \*\*\* million square feet in 2009.<sup>125</sup> It was \*\*\* million square feet in interim 2009 and increased to \*\*\* million square feet in interim 2010.

Respondents assert that the MLWF industry has two distinct segments, the builder market, which is primarily supplied by the domestic industry, and the residential remodeling and replacement market, in

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<sup>118</sup> Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Inv. Nos. 731-TA-1131-1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

<sup>119</sup> To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

<sup>120</sup> Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

<sup>121</sup> CR at II-6, PR at II-4.

<sup>122</sup> Tr. at 19 (Holm) and 63 (Dougan).

<sup>123</sup> Tr. at 39 (Dougan); CR/PR Figure II-1.

<sup>124</sup> Tr. at 39-40 (Dougan).

<sup>125</sup> CR/PR at Table IV-3.

which subject imports are more focused.<sup>126</sup> Respondents claim that demand for the MLWF produced by the domestic industry plummeted during the period of investigation because it was largely tied to the builder market, which was hit hardest by the recession and the collapse of the housing market and<sup>127</sup> Respondents also claim that the residential and remodeling market is serviced mainly by big box retailers like Lowe's and Home Depot or specialty DIY retailers ranging from Lumber Liquidators to smaller local shops.<sup>128</sup> Respondents state that large home center stores such as Home Depot and Lowe's account for an increasing percentage of sales.<sup>129</sup> Although demand in this market also declined during the recession, the decline was much more modest than in the builder market. Consequently, Respondents claim that demand for subject imports held up much better than demand for the domestic like product.<sup>130</sup>

Respondents have also argued that consumers now have access to a wider range of higher quality products, such as laminate, luxury vinyl tile, bamboo, and cork, that are viable alternatives to MLWF.<sup>131</sup> Respondents claim that these substitutes are competing directly with MLWF and taking away market share.<sup>132</sup>

## 2. Supply Conditions

There are currently 13 known U.S. producers of MLWF.<sup>133</sup> The leading U.S. producers of MLWF are \*\*\* which collectively accounted for approximately two-thirds of U.S. production of MLWF in 2009.<sup>134</sup> The leading producers of MLWF in China include \*\*\*,<sup>135</sup> The leading U.S. importers of MLWF from China are \*\*\*, which collectively accounted for approximately 40 percent of subject imports.<sup>136</sup>

During the period of investigation, the U.S. market was supplied by the domestic industry, subject imports, and imports from nonsubject countries.<sup>137</sup> The domestic industry's share of apparent U.S. consumption, by quantity, decreased from \*\*\* percent in 2007 to \*\*\* percent in 2008 and \*\*\* percent in 2009, and was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010.<sup>138</sup> The market share of subject imports, based on quantity, increased from \*\*\* percent in 2007 to \*\*\* percent in 2008 and \*\*\* percent in 2009, and was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010.<sup>139</sup> The market share of imports from nonsubject countries, based on quantity,

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<sup>126</sup> Tr. at 153-154 (Rogers).

<sup>127</sup> Lumber Liquidators' Postconference Brief at 28-30.

<sup>128</sup> Lumber Liquidators' Postconference Brief at 28-29.

<sup>129</sup> Lumber Liquidators' Postconference Brief at 22, n.54.

<sup>130</sup> CR/PR at Figure II-2.

<sup>131</sup> CR at II-8, PR at II-6; U.S. Importers' Postconference Brief at 30-32.

<sup>132</sup> U.S. Importers' Postconference Brief at 30-32.

<sup>133</sup> CR at I-3, PR at I-3.

<sup>134</sup> CR at I-3, PR at I-3, CR at II-1, PR at II-1.

<sup>135</sup> CR at I-3, PR at I-3.

<sup>136</sup> CR at I-3, PR at I-3, CR at II-1, PR at II-1.

<sup>137</sup> CR/PR at Table IV-4.

<sup>138</sup> CR/PR at Table IV-4.

<sup>139</sup> CR/PR at Table IV-4.

decreased from \*\*\* percent in 2007 to \*\*\* percent in 2008 and \*\*\* percent in 2009, and was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010.<sup>140</sup>

### **3. Interchangeability and Other Considerations**

All 11 responding U.S. producers and 26 of 39 responding importers reported that subject imports and the domestic like product are either “always” or “frequently” interchangeable.<sup>141</sup> Eight of the nine responding U.S. producers reported that differences other than price between subject imports and the domestic like product are only sometimes or never a significant factor.<sup>142</sup> Responses from importers were more mixed, with 16 of 41 responding importers reporting that differences other than price between U.S.-produced MLWF and subject imports are sometimes or never a significant factor.<sup>143</sup>

Respondents claim that factors other than price are significant in the U.S. MLWF market.<sup>144</sup> Respondents do not claim that price is not a factor in the MLWF market, but “that non-price factors such as consumer trends, taste, quality, durability, craftsmanship, product consistency, ease of installation, and service all play a significant role in the purchasing decisions of consumers.”<sup>145</sup> Respondents also argue that U.S. consumer tastes are trending away from domestic species and traditional appearance toward flooring of exotic species (i.e., nonnative species such as Chinese acacia or birch) or nontraditional materials (e.g., bamboo).<sup>146</sup> Respondents claim that the domestic industry does not manufacture flooring using the exotic species that are in demand in the United States, and to which foreign producers are responsive, and have showed an unwillingness to adapt to these changes in demand.<sup>147</sup> Additionally, Respondents argue that the domestic industry was slow to introduce new and innovative technologies such as high-density fiberboard core products and “click-and-lock” DIY products and therefore has largely missed out on these important and growing markets.<sup>148</sup> According to Respondents, these new technologies are significant non-price factors for consumers that have been embraced more fully by the product offerings of subject producers and help to explain the relative growth in subject imports.

Petitioners claim that MLWF from China is interchangeable with domestic merchandise when made to the same specification and has often been cloned from domestic industry designs.<sup>149</sup> Petitioners assert that, in the U.S. market, subject imports compete head-to-head for the same customers and in the same channels of distribution as domestically produced merchandise and that U.S. producers have lost the

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<sup>140</sup> CR/PR at Table IV-4.

<sup>141</sup> CR/PR at Table II-2. The majority of responding U.S. producers and importers also reported that the domestic like product and subject imports are either “always” or “frequently” interchangeable with nonsubject imports. CR/PR at Table II-2.

<sup>142</sup> CR/PR at Table II-3.

<sup>143</sup> CR/PR at Table II-3.

<sup>144</sup> Lumber Liquidators’ Postconference Brief at 30-32. Respondents state that the Commission has already found, in its 2008 investigation of wood flooring under section 332 of the Tariff Act of 1930, that non-price factors are significant with respect to wood flooring sales. See Wood Flooring and Hardwood Plywood: Competition Conditions Affecting the U.S. Industries, Inv. No. 332-487, USITC Pub. 4032. We note, however, that any findings or conclusions reached in other investigations under other statutory regimes do not bind the Commission in these investigations, where we must make our determinations under the statutes governing these investigations and on the record compiled herein.

<sup>145</sup> Lumber Liquidators’ Postconference Brief at 30-31.

<sup>146</sup> Lumber Liquidators’ Postconference Brief at 32-33; U.S. Importers’ Postconference Brief at 39-41.

<sup>147</sup> U.S. Importers’ Postconference Brief at 40.

<sup>148</sup> Lumber Liquidators’ Postconference Brief at 32-33; U.S. Importers’ Postconference Brief at 27-29.

<sup>149</sup> Tr. at 42 (Dogan).

opportunity to even bid for business with certain customers who are already aware that fully interchangeable Chinese imports are available at a much lower price. According to Petitioners, “price drives the market . . . {and} China drives the price,” and China’s gains in market share have been due solely to price.<sup>150</sup>

Although the parties disagree as to the importance of price, we find that the record in these investigations indicates that price is important in purchasing decisions.<sup>151</sup> We intend to explore this issue further in any final phase investigations.

Raw material costs accounted for 45 to 49 percent of the total cost of goods sold (“COGS”) for U.S. producers from 2007 to 2009.<sup>152</sup> Wood veneer peeled or sliced from sawtimber is the main raw material used to produce MLWF. The average price for oak and hardwood sawtimber remained relatively flat from 2007 to 2008, declined from 2008 to 2009, and increased from 2009 to September 2010.<sup>153</sup>

### **C. Volume of Subject Imports**

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>154</sup>

The volume of subject imports from China increased, both absolutely and relatively, over the period examined. Subject imports increased from 100.2 million square feet in 2007 to 133.7 million square feet in 2008, then declined to 113.5 million square feet in 2009.<sup>155</sup>

Despite the decline in the absolute volume of subject imports between 2008 and 2009, subject imports continued to gain market share during a period of declining apparent U.S. consumption. Apparent U.S. consumption of wooden flooring increased by 7.5 percent between 2007 and 2008, but then declined 14.7 percent between 2008 and 2009, for an overall decline of 8.2 percent between 2007 and 2009. During that period, subject imports from China steadily increased their share of the U.S. market. Subject imports’ share of apparent U.S. consumption, measured by quantity, increased from 30.5 percent in 2007 to 40.8 percent in 2008 and 42.6 percent in 2009.<sup>156</sup>

The bulk of the subject imports’ increase in market penetration from 2007 to 2009 came at the expense of the domestic industry.<sup>157</sup> During that period, subject imports’ market share increased by 12.2 percentage points, while the domestic industry’s market share declined by 7.1 percentage points.<sup>158</sup> By comparison, the market share of nonsubject imports declined 5.0 percentage points, from 15.0 percent in 2007 to 9.9 percent in 2009.<sup>159</sup>

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<sup>150</sup> Tr. at 25 (Holm), Tr. at 42 (Dougan).

<sup>151</sup> See, e.g., CR/PR at Tables II-2, II-3; CR at II-10-II-11, PR at II-10-II-11.

<sup>152</sup> CR at V-1, PR at V-1.

<sup>153</sup> CR/PR at Figure V-1.

<sup>154</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>155</sup> CR/PR at Table IV-2. The volume of subject imports in interim 2010 (113.0 million square feet) was considerably higher than that in interim 2009 (88.0 million square feet). Id.

<sup>156</sup> CR/PR at Table C-1.

<sup>157</sup> The domestic industry’s market share, measured by quantity, declined from 54.5 percent in 2007 to 48.3 percent in 2008 and 47.4 percent in 2009, and was 46.1 percent in interim 2009 and 45.2 percent in interim 2010. CR/PR at Table C-1.

<sup>158</sup> CR/PR at Table C-1.

<sup>159</sup> CR/PR at Table C-1. Apparent U.S. consumption was 10.4 percent higher in interim 2010 than in interim 2009, and subject imports from China increased their market share at the expense of both the domestic industry and

(continued...)

Additionally, the volume of subject imports from China increased substantially relative to the domestic industry's production levels during the period of investigation. The ratio of subject imports to domestic production increased from 56.8 percent in 2007 to 85.6 percent in 2008 and 88.9 percent in 2009.<sup>160</sup>

Respondents argue that the volume of subject imports is not significant because of limited competition between subject imports and the domestic like product. Specifically, they contend that the domestic like product and subject imports compete in different markets, with the domestic product competing primarily in the builder market and subject imports competing primarily in the remodeling market, thereby attenuating competition between the domestic product and subject imports.<sup>161</sup> Moreover, Respondents assert that home center stores and large chain stores account for an increasing percentage of sales in the remodeling market and that, despite this rapid growth, some domestic producers, including Mannington and Anderson, made a strategic decision not to sell through these leading retail channels.<sup>162</sup>

Respondents' attenuated competition argument is at odds with much of the evidence on the record in these investigations. Domestic industry witnesses for both Mannington and Shaw<sup>163</sup> stated that approximately 60 percent of their sales currently go to the remodeling market, while only the remaining 40 percent of their sales are for new homes.<sup>164</sup> \*\*\* also provided evidence indicating that they have made concerted and consistent efforts to sell MLWF through the home center stores and large chain stores, \*\*\*, throughout the period of investigation.<sup>165</sup> This evidence indicates that these producers have not refused to sell to these companies or been unable to provide a requested product. Instead, it shows that there were occasions when these companies could not sell at the low price points set by subject imports and required by the home center stores and large chain stores. Additional evidence of overlap of competition between U.S. producers and importers from China is provided in the responses to the Commission's questionnaires, as \*\*\* customers, accounting for a significant percentage of U.S. producer shipments and subject imports, were each named as a top ten customer of at least one U.S. producer and at least one importer from China.<sup>166</sup> Based on the record in the preliminary phase of these investigations, we do not find that competition is attenuated between the domestic like product and subject imports.

For purposes of the preliminary phase of these investigations, we conclude that the volume of subject imports from China and the increase in that volume are significant both in absolute terms and relative to consumption and production in the United States.

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<sup>159</sup> (...continued)

nonsubject imports. By quantity, subject imports from China had a market share of 43.4 percent in interim 2009 and 46.7 percent in interim 2010, whereas the domestic industry and nonsubject imports both had lower shares in interim 2010 than in interim 2009. CR/PR at Table C-1.

<sup>160</sup> The ratio of subject imports to domestic production in interim 2010 (106.1 percent) was substantially higher than in interim 2009 (92.0 percent). CR/PR at Table IV-5.

<sup>161</sup> Lumber Liquidators' Postconference Brief at 21-25; U.S. Importers' Postconference Brief at 19-29.

<sup>162</sup> Lumber Liquidators' Postconference Brief at 21-22; U.S. Importers' Postconference Brief at 24-28.

<sup>163</sup> Anderson is now wholly owned by Shaw. CR /PR at Table III-1.

<sup>164</sup> Tr. at 63-64 (Natkin, Finkell).

<sup>165</sup> Petitioners' Postconference Brief at 20-24.

<sup>166</sup> Petitioners' Postconference Brief at 24-25.

#### **D. Price Effects of the Subject Imports**

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>167</sup>

In these preliminary phase investigations, the Commission collected quarterly pricing data on four products. For 2009, the pricing data accounted for approximately 45 percent of U.S. producers' shipments of MLWF and 18 percent of U.S. shipments of subject imports from China.<sup>168</sup>

The subject imports were priced lower than the domestic like product in 42 out of 60 quarterly pricing comparisons.<sup>169</sup> Underselling margins ranged from 0.3 to 49.2 percent and averaged 27.9 percent.<sup>170</sup> Because price is an important consideration in purchasing decisions, we find this widespread underselling at frequently high margins to be significant.

We also examined evidence concerning the domestic industry's allegations of lost sales and lost revenues.<sup>171</sup> Despite the relatively small share of confirmed lost sales and lost revenue allegations at this stage, we note that seven of ten responding purchasers named by domestic producers in their lost sales and lost revenue allegations reported switching purchases of MLWF from U.S. producers to suppliers of imports from China during the period of investigation.<sup>172</sup> All seven purchasers indicated that price was the reason for the shift.<sup>173</sup> Seven of eight responding purchasers named in lost sales and lost revenue allegations indicated that U.S. producers reduced their prices in order to compete with prices of subject imports from China during the period of investigation.<sup>174</sup> This provides further evidence of the significance of the low prices of subject imports from China and leads us to conclude that subject imports gained market share during the period examined at the expense of the domestic industry through aggressive pricing.

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<sup>167</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>168</sup> CR at V-4, PR at V-3.

<sup>169</sup> CR/PR at Tables V-1 to V-4, V-6.

<sup>170</sup> CR/PR at Table V-6. We note that the product specifications used in the pricing comparisons for these preliminary phase investigations may not have distinguished between different grades or species within each product description. Where possible, we intend, in any final phase investigations, to seek greater precision in the pricing products we will use to obtain price comparisons between the domestic like product and subject imports. We invite the parties to make specific proposals on this issue in their comments on draft questionnaires in any final investigations.

<sup>171</sup> Purchasers specifically agreed with lost sales allegations totaling \$33,045, which represent six percent of the value of all lost sales allegations made by U.S. producers, and with lost revenue allegations totaling \$120,000, which represent 12 percent of the value of all lost revenue allegations made by U.S. producers. CR at V-16, PR at V-6. Purchasers specifically disagreed with lost sales allegations totaling \$38,128, which represent seven percent of the value of all lost sales allegations, and lost revenue allegations totaling \$68,400, which represent 7 percent of all lost revenue allegations. CR at V-16, PR at V-6. Purchasers did not specifically agree or disagree with lost sales allegations totaling \$145,178, equivalent to 33 percent of the value of all lost sales allegations, and lost revenue allegations totaling \$240,000, equivalent to 23 percent of all lost revenue allegations. CR at V-16, PR at 6.

<sup>172</sup> CR at V-14, PR at V-5.

<sup>173</sup> One of these six purchasers (\*\*\*) indicated that both price and species were reasons for the shift, as it moved to a birch product priced at \$\*\*\* per square foot. CR at V-14, PR at V-5.

<sup>174</sup> CR at V-14, PR at V-5.



The record does not support a finding of price depression. Prices for each of the domestically produced products on which the Commission collected data fluctuated during the period examined. Prices for domestically produced products 1, 2, and 3 remained relatively flat from 2007 to 2008, declined in 2009, and then increased to approximately their level at the start of the period by the third quarter of 2010.<sup>175</sup>

The domestic industry's COGS as a share of net sales increased from \*\*\* percent in 2007 to \*\*\* percent in 2008 and \*\*\* percent in 2009, and was \*\*\* percent in interim 2009 and \*\*\* percent in interim 2010.<sup>176</sup> Thus, during the period of investigation, it appears that the domestic MLWF industry was unable to raise prices sufficiently to recoup increased costs.<sup>177</sup> Accordingly, we find that there is evidence that subject imports have suppressed prices for domestically produced MLWF.<sup>178</sup>

For purposes of the preliminary phase of these investigations, we find that the significant volume of subject imports during the period of investigation had significant adverse price effects on domestic producers' prices.

#### **E. Impact of the Subject Imports**<sup>179</sup>

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."<sup>180</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>181</sup>

Most domestic industry performance indicators declined overall between 2007 and 2009. Production declined progressively during the period examined, from 176.5 million square feet in 2007 to 156.2 million square feet in 2008 and 127.7 million square feet in 2009.<sup>182</sup> Although the industry's

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<sup>175</sup> CR/PR at Tables V-1-V-3.

<sup>176</sup> CR/PR at Table C-3.

<sup>177</sup> We note in particular the experience of the domestic industry from 2007 to 2008. Despite rising demand, the domestic industry was unable to raise prices to offset rising costs. During that period, the market share of subject imports increased by 10.3 percentage points, the domestic industry's unit COGS increased 10.5 percent, and its COGS/sales ratio increased by 6.2 percentage points. CR/PR at Table C-1.

<sup>178</sup> Commissioner Aranoff does not find that subject imports prevented price increases for the domestic like product, which otherwise would have occurred, to a significant degree. Given that subject imports and domestic production are largely substitutable, and that price is an important factor in purchasing decisions, she finds that significant underselling by subject imports caused domestic producers to lose sales and market share in price-based competition.

<sup>179</sup> In its notice initiating the antidumping investigation on multilayered wood flooring from China, Commerce reported estimated dumping margins ranging from 194.49 percent to 280.6 percent. 75 Fed. Reg. at 70717.

<sup>180</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

<sup>181</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

<sup>182</sup> CR/PR at Table III-3.

average production capacity increased overall during the investigation period,<sup>183</sup> its capacity utilization fell dramatically from 70.9 percent in 2007 to 54.6 percent in 2008 and 47.3 percent in 2009, mostly as a result of the decline in production.<sup>184</sup>

Domestic producers' U.S. shipments followed trends similar to those related to production,<sup>185</sup> falling from 165.3 million square feet in 2007 to 157.5 million square feet in 2008 and 131.8 million square feet in 2009.<sup>186</sup> The 20.2 percent decline in the quantity of U.S. shipments from 2007 to 2009 was double the 8.2 percent decline in apparent U.S. consumption during the same period.<sup>187</sup> Consequently, the domestic industry's share of apparent U.S. consumption also fell, declining from 54.5 percent in 2007 to 47.4 percent in 2009.<sup>188</sup>

The number of production and related workers ("PRWs") declined overall during the period of investigation, increasing from 2,357 in 2007 to 2,463 in 2008, but then falling to 2,077 in 2009.<sup>189</sup> Hours worked fell from 5.1 million in 2007 to 5.0 million in 2008 and 4.1 million in 2009.<sup>190</sup> Hourly wages, by contrast, increased each year, while productivity was relatively stable throughout the period.<sup>191</sup>

The domestic industry's overall declines in output and market share between 2007 and 2009 corresponded with overall declines in its net sales revenues.<sup>192</sup> In addition, the industry's operating margins declined from positive 4.7 percent in 2007 to negative 4.3 percent in 2008 and negative 8.7 percent in 2009.<sup>193</sup> By 2009, five of the nine reporting producers sustained operating losses.<sup>194</sup>

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<sup>183</sup> Domestic producers' average production capacity increased from 249.1 million square feet in 2007 to 286.1 million square feet in 2008, but declined to 270.1 million square feet in 2009. CR/PR at Table III-3. Several domestic producers also closed production operations or plants or had production shutdowns between 2007 and 2009. CR/PR at Table III-1.

<sup>184</sup> CR/PR at Table III-3.

<sup>185</sup> The overwhelming majority of the domestic industry's shipments were U.S. shipments. The domestic industry's exports decreased irregularly from 2007 to 2009, but exports constituted no more than \*\*\* percent of total shipments at any point during the period examined. CR/PR at Table III-4.

<sup>186</sup> CR/PR at Table III-4. End-of-period inventories fell overall, increasing from 26.9 million square feet in 2007 to 30.4 million square feet in 2008, but then declining to 25.3 million square feet in 2009. Due to the overall decline in its U.S. shipments, the domestic industry's inventories increased as a ratio to U.S. shipments from 16.3 percent in 2007 to 19.3 percent in 2008 and 19.2 percent in 2009. CR/PR at Table III-5.

<sup>187</sup> CR/PR at Table C-1.

<sup>188</sup> CR/PR at Table IV-4.

<sup>189</sup> CR/PR at Table III-7.

<sup>190</sup> CR/PR at Table III-7.

<sup>191</sup> CR/PR at Table III-7.

<sup>192</sup> The domestic industry's net sales increased from \$410.0 million in 2007 to \$411.2 million in 2008, but then declined to \$329.6 million in 2009. CR/PR at Table VI-1.

<sup>193</sup> CR/PR at Table VI-1.

<sup>194</sup> CR/PR at Table VI-2. Capital expenditures increased from \$18.3 million in 2007 to \$20.1 million in 2008, and then declined to \$13.5 million in 2009. Research and development expenses declined from \$\*\*\* in 2007 to \$\*\*\* in 2008 and \$\*\*\* in 2009. CR/PR at Table VI-4.

Many of the domestic industry's performance indicators, including production,<sup>195</sup> shipments,<sup>196</sup> net sales quantities,<sup>197</sup> capacity utilization,<sup>198</sup> employment,<sup>199</sup> and operating margins,<sup>200</sup> improved in interim 2010 relative to interim 2009, even as subject imports reached their highest levels for the period both absolutely and relatively.<sup>201</sup> We note, however, that all of these performance indicators were still far below their levels at the start of the period and remained depressed in interim 2010. Notably, the domestic industry's operating margin remained below the break-even point. Moreover, domestic producers stated that the improvements in their performance during 2010 were attributable to the stimulus of the federal home buyer tax credit, which stimulated demand for MLWF by encouraging new home construction that would not otherwise have occurred.<sup>202</sup> According to these domestic producers, all the benefit from the tax credit arrived in the first half of 2010 and, with the expiration of the tax credit, second-half 2010 results have returned to depressed levels.<sup>203</sup> We intend to further examine this issue in any final phase investigations, in which we will be able to examine full-year 2010 data.

For purposes of these preliminary phase investigations, we find that there is a causal nexus between the subject imports and the deteriorating condition of the domestic industry. Subject imports undersold the domestic like product and displaced domestic production in market share, leading to significant declines in the domestic industry's production, shipments, capacity utilization, employment, and profitability. We have also considered whether there are other factors that may have had an adverse impact on the domestic industry during the period examined to ensure that we are not attributing injury from such other factors to the subject imports. We recognize that the significant decline in apparent U.S. consumption over the period had a role in the domestic industry's deteriorating performance. Nevertheless, as previously noted, the decline in the domestic industry's shipments from 2007 to 2009 was double the decline in apparent U.S. consumption. By the same token, the domestic industry's loss of market share to the subject imports, whose volume increased in 2009 notwithstanding declining demand, is not a function of demand. Consequently, notwithstanding declines in consumption, the subject imports were a material cause of the domestic industry's declining performance.

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<sup>195</sup> Production was 95.7 million square feet in interim 2009 and 106.5 million square feet in interim 2010. CR/PR at Table C-1.

<sup>196</sup> The U.S. industry's U.S. shipments were 96.9 million square feet in interim 2009 and 104.8 million square feet in interim 2010. CR/PR at Table C-1.

<sup>197</sup> The U.S. industry's net sales quantities were 91.5 million square feet in interim 2009 and 98.9 million square feet in interim 2010. CR/PR at Table C-1.

<sup>198</sup> Capacity utilization was 45.9 percent in interim 2009 and 56.8 percent in interim 2010. CR/PR at Table C-1.

<sup>199</sup> PRWs were 2,021 in interim 2009 and 2,052 in interim 2010. CR/PR at Table C-1. Hours worked were 2.9 million in interim 2009 and 3.2 million in interim 2010. CR/PR at Table C-1.

<sup>200</sup> Operating margins were negative 9.7 percent in interim 2009 and negative 4.4 percent in interim 2010. CR/PR at Table C-1.

<sup>201</sup> CR/PR at Table C-1.

<sup>202</sup> Tr. at 88-89 (Finkell and Holm).

<sup>203</sup> Tr. at 88-89 (Finkell and Holm).

We have also examined the impact of nonsubject imports.<sup>204</sup> Unlike subject imports, nonsubject imports declined both in absolute and relative terms. The quantity of nonsubject imports declined from 45.3 million square feet in 2007 to 33.1 million square feet in 2008 and 23.8 million square feet in 2009.<sup>205</sup> It was 18.7 million square feet in interim 2009 and 16.4 million square feet in interim 2010.<sup>206</sup> Nonsubject imports' share of the quantity of apparent U.S. consumption declined from 15.0 percent in 2007 to 10.9 percent in 2008 and 9.9 percent in 2009.<sup>207</sup> It was 10.5 percent in interim 2009 and 8.2 percent in interim 2010.<sup>208</sup> The limited information available in the record further indicates that imports from nonsubject countries sold at higher prices than the domestic like product in the majority of comparisons.<sup>209</sup> This is in contrast to the subject imports, which undersold the domestic product in the majority of comparisons.<sup>210</sup>

As discussed above, increasing volumes of subject imports displaced U.S. producers' market share throughout the period of investigation, undersold the domestic like product, and led to significant downturns in the industry's production, shipments, capacity utilization, employment, and profitability. Thus, we conclude that, for purposes of the preliminary phase of these investigations, the subject imports have had a significant adverse impact on the domestic industry.

## CONCLUSION

For the foregoing reasons, and based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly dumped and subsidized imports of MLWF from China.

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<sup>204</sup> Based on the record evidence in this preliminary phase, Commissioner Pinkert finds that price competitive, nonsubject imports were a significant factor in the U.S. market during the period of investigation. He also finds, however, that, regardless of whether MLWF is a commodity product, nonsubject imports would not have replaced the subject imports without benefit to the domestic industry had the subject imports exited the market during the period. The quantity of nonsubject imports was never close to that of the subject imports, and both the quantity and market share of nonsubject imports declined steadily. CR/PR at Table C-1. Moreover, there is no record information with respect to the production and export capabilities of nonsubject foreign producers and, thus, nothing to indicate that such imports could have increased to replace the subject imports. Finally, even if nonsubject imports had replaced the subject imports, they were generally at higher prices, meaning that there would have been a price benefit to the domestic industry. CR/PR at Appendix E.

<sup>205</sup> CR/PR at Table IV-2.

<sup>206</sup> CR/PR at Table IV-2.

<sup>207</sup> CR/PR at Table IV-4.

<sup>208</sup> CR/PR at Table IV-4.

<sup>209</sup> CR/PR at Appendix E. Nonsubject imports oversold the domestic like product in 62 out of 99 instances and oversold subject imports in 65 out of 99 instances.

<sup>210</sup> CR/PR at Tables V-1 to V-4, V-6.

# PART I: INTRODUCTION

## BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) on behalf of the Coalition for American Hardwood Parity (“CAHP”), an ad hoc association of U.S. manufacturers of multilayered wood flooring, on October 21, 2010, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of multilayered wood flooring (“MLWF”)<sup>1</sup> from China. The following companies are members of the CAHP: Anderson Hardwood Floors, LLC (“Anderson”), Fountain Inn, SC; Award Hardwood Floors (“Award”), Wausau, WI; Baker’s Creek Wood Floors, Inc. (“Baker’s Creek”), Edwards, MS; From the Forest, Weston, WI; Howell Hardwood Flooring, (“Howell”), Dothan, AL; Mannington Mills, Inc. (“Mannington”), Salem, NJ; Nydree Flooring, Forest (“Nydree”), VA; and Shaw Industries Group, Inc. (“Shaw”), Dalton, GA. Information relating to the background of these investigations is provided below.<sup>2</sup>

Effective date	Action
October 21, 2010	Petition filed with Commerce and the Commission; institution of Commission investigations (75 FR 66126, October 27, 2010)
November 12, 2010	Commission’s conference <sup>1</sup>
November 18, 2010	Commerce’s notice of initiation of antidumping duty investigation (75 FR 70714)
November 18, 2010	Commerce’s notice of initiation of countervailing duty investigation (75 FR 70719)
December 3, 2010	Commission’s vote
December 6, 2010	Commission determination transmitted to Commerce
December 13, 2010	Commission views transmitted to Commerce

<sup>1</sup> A list of witnesses appearing at the conference is presented in app. B.

## STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

### Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the*

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<sup>1</sup> See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to these investigations.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

*determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

*In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*

...

*In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*

...

*In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*

...

*(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

### **Organization of the Report**

*Part I* of this report presents information on the subject merchandise, alleged subsidy and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

### **U.S. MARKET SUMMARY**

MLWF is used for flooring. The leading U.S. producers of MLWF are \*\*\*, while leading producers of MLWF in China include \*\*\* of China. The leading U.S. importers of MLWF from China are \*\*\*. Leading importers of MLWF from nonsubject countries (primarily \*\*\*) include \*\*\*.

Apparent U.S. consumption of MLWF totaled approximately 278.1 million square feet (\$736.2 million) in 2009. Currently, 13 firms are known to produce MLWF in the United States. U.S. producers' U.S. shipments of MLWF totaled 131.8 million square feet (\$345.7 million) in 2009, and accounted for 47.4 percent of apparent U.S. consumption by quantity and 47.0 percent by value. U.S. shipments of subject imports totaled 118.6 million square feet (\$319.6 million) in 2009 and accounted for 42.6 percent of apparent U.S. consumption by quantity and 43.4 percent by value. U.S. imports from nonsubject sources totaled 27.6 million square feet (\$71.0 million) in 2009 and accounted for 9.9 percent of apparent U.S. consumption by quantity and 9.6 percent by value.

## SUMMARY DATA AND DATA SOURCES

\ A summary of data collected in the investigations is presented in appendix C. Table C-1 presents collected producer data and import statistics compiled from data submitted in response to Commission questionnaires.<sup>3</sup> Except as noted, U.S. industry data are based on questionnaire responses of 11 firms that accounted for all known U.S. production of MLWF during 2009.

## PREVIOUS AND RELATED INVESTIGATIONS

Multilayered wood flooring has not been the subject of prior countervailing or antidumping duty investigations in the United States.

## NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

### Alleged Subsidies

On November 18, 2010, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on MLWF from China.<sup>4</sup> Commerce identified the following government programs in China:

#### A. Tax Benefit Programs

1. Income Tax Exemption/Reduction under "Two-Free/Three Half" Program
2. Local Income Tax Exemption and Reductions for "Productive" Foreign-Invested Enterprises ("FIEs")
3. Tax Subsidies to FIEs Based on Geographic Location

#### B. Indirect Tax and Import Tariff Programs

4. Value Added Tax and Tariff Exemptions on Imported Equipment

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<sup>3</sup> All parties agree that responses to the Commission's importer questionnaire provide the most reliable importer data. Petitioner's postconference brief, p. 12; Chinese Producers' Association, postconference brief, p. 13; Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer), postconference brief, p. 18; Mowry & Grimson, LLC (on behalf of a U.S. importer and Chinese producer), postconference brief, pp. 3-4; and Sandler, Travis & Rosenberg, P.A. (on behalf of two U.S. importers and one domestic producer), postconference brief, p. 308.

<sup>4</sup> *Multilayered Wood Flooring From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 FR 70719, November 18, 2010.

- C. Provision of Goods or Services for Less Than Adequate Remuneration (“LTAR”)**
5. Electricity for LTAR
  6. Provision of Electricity at LTAR for FIEs and “Technologically Advanced” Enterprises by Jiangsu Province

### **Alleged Sales at LTFV**

On November 18, 2010, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigation on MLWF from China.<sup>5</sup> Commerce has initiated antidumping duty investigations based on estimated dumping margins ranging from 194.49 percent to 280.60 percent, with a simple average of 237.54 percent for MLWF from China.

### **THE SUBJECT MERCHANDISE**

#### **Commerce’s Scope**

Commerce has defined the scope of these investigations as follows:

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)<sup>6</sup> in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, e.g., “engineered wood flooring” or “plywood flooring.” Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

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

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<sup>5</sup> *Multilayered Wood Flooring From the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 75 FR 70714, November 18, 2010.

<sup>6</sup> A “veneer” is a thin slice of wood, rotary cut, sliced, or sawed from a log, bolt, or flitch. Veneer is referred to as a ply when assembled.



included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

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

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

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

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS):

4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

In addition, imports of subject merchandise may enter the U.S. under the following HTSUS subheadings: 4409.10.0500; 4409.10.2000; 4409.29.0515; 4409.29.0525; 4409.29.0535; 4409.29.0545; 4409.29.0555; 4409.29.0565; 4409.29.2530; 4409.29.2550; 4409.29.2560; 4418.71.1000; 4418.79.0000; and 4418.90.4605.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.<sup>7</sup>

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<sup>7</sup> *Multilayered Wood Flooring From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 75 FR 70714, November 18, 2010. *Multilayered Wood Flooring From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 75 FR 70719, November 18, 2010.

## Tariff Treatment<sup>8</sup>

Imports of multilayered wood flooring are classified within several subheadings within Chapter 44 of the Harmonized Tariff Schedule of the United States (HTSUS). The predominant classifications are subheadings 4412.31 and 4412.32, HTSUS, which provide as follows:

- 4412.31 Plywood, veneered panels and similar laminated wood. Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness; with at least one outer ply of tropical wood.
- 4412.32 Plywood, veneered panels and similar laminated wood. Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness; with at least one outer ply of nonconiferous wood.

To a lesser degree, and depending on the particular composition and construction of the product (particularly the composition of the face veneer and the core), imports of multilayered wood flooring may be classified under other subheadings encompassed within heading 4412, HTSUS, including subheadings 4412.39, 4412.94, and 4412.99, HTSUS. These subheadings provide as follows:

- 4412.39 Plywood, veneered panels and similar laminated wood. Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness; with both outer plies of coniferous wood.
- 4412.94 Plywood, veneered panels and similar laminated wood. Blockboard, laminboard and battenboard.
- 4412.99 Plywood, veneered panels and similar laminated wood. Other.

Imports of multilayered wood flooring may also be entered under other headings of Chapter 44, HTSUS, although imports of the subject merchandise recorded under these headings may constitute misclassifications. These include the following subheadings with headings 4409 and 4418, HTSUS, as follows:

- 4409.10.05 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed. Coniferous wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or face, all the foregoing whether or not planed, sanded or end-jointed.
- 4409.10.20 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed. Coniferous wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or face, all the foregoing whether or not planed, sanded or end-jointed. Other wood flooring.

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<sup>8</sup> Appendix D presents the appropriate HTS pages.

- 4409.29.05 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed. Nonconiferous, other wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or face, all the foregoing whether or not planed, sanded or end-jointed. Wood flooring (end-matched).
- 4409.29.25 Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed. Nonconiferous, other wood flooring.
- 4418.71.20 Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes. Assembled flooring panels, for mosaic floors. Other, having a face ply of more than 6 mm in thickness.
- 4418.71.90 Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes. Assembled flooring panels, for mosaic floors, other, having a face ply of more than 6 mm in thickness. Other.
- 4418.72.20 Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes. Assembled flooring panels, other, multilayer, having a face ply of more than 6 mm in thickness.
- 4418.72.95 Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes. Assembled flooring panels, other, multilayer, having a face ply of more than 6 mm in thickness, other.
- 4418.79.00 Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes. Assembled flooring panels, other.

## **THE PRODUCT**

### **Description and Applications**

MLWF is a type of wood flooring product fabricated by using multiple layers of wood veneer or other kinds of wood materials. It is typically composed of 2 to 10 laminated wood layers or plies that include a core sandwiched between other veneer layers and a face veneer surface of a desired wood species and finish. While the inner layers are typically composed of wood veneers, they may also be made of solid wood pieces or utilize composite wood such as medium or high density fiberboard (MDF or HDF). Thicknesses of MLWF typically range from ¼ inch to ¾ inch with the most common thicknesses being ⅜ inch and ½ inch. The layers are glued with their grain in alternating directions to provide strength and durability to the product. The surface or face veneer is referred to as the “wear” layer and can vary from paper thin (as low as 0.1 mm or 0.004 inches) to several millimeters (up to 0.25 inches) in

thickness.<sup>9</sup> The thicker the face veneer, the greater the surface durability. However, the technology has advanced to enable production of MLWF using a very thin face veneer or wear layer whose durability is enhanced through the use of impregnated resins and finishes. MLWF is generally produced and sold in strips, planks, or geometric patterns such as parquet flooring. Typically, MLWF is sold in lengths of 42-58 inches with widths ranging from 2¼ inches to 8 inches, but is also available in longer lengths and wider dimensions.<sup>10</sup>

MLWF manufacturers sell the product to specialty flooring distributors, installers and/or home centers. The share of wood flooring sales by home centers such as Lowe's and Home Depot has reportedly increased over the past decade and represented 26.1 percent of total U.S. wood flooring retail sales in 2009, according to one source of industry data.<sup>11</sup> Lumber Liquidators, a national wood flooring specialty retailer, is believed to account for an additional 13.1 percent of wood flooring retail sales, according to the same source.<sup>12</sup>

The residential market accounts for the vast majority of the total market, but MLWF is also used in commercial applications.<sup>13</sup> Within the residential market, the product has historically been used about equally in new building construction and for remodeling, although the actual share of each fluctuates with the strength of activity in each market.<sup>14</sup> During the current economic downturn, with housing starts depressed, the proportion of MLWF sold and used for remodeling or renovations has been higher.<sup>15</sup>

MLWF is sold most often as a pre-finished product. This lends itself for use in remodeling projects where consumers may not want to deal with dust and finishing odors, and where a thinner wood flooring product is more suitable because, for example, doors might otherwise have to be trimmed to fit thicker flooring.<sup>16</sup> Unlike solid wood flooring, which typically can only be installed by nailing over a wood underlayment, certain types of MLWF can be glued directly onto a concrete substrate or installed using a glueless click and lock system. MLWF tends to be more stable than solid wood flooring so it can be installed below grade or in areas with high humidity where solid wood flooring is not typically suitable.<sup>17</sup>

### **Manufacturing Processes**

The production of MLWF typically begins with veneers that have been peeled or sliced from debarked logs, flitches, or lumber, sorted and graded for quality, and dried. The veneers are stacked with the grain of each layer perpendicular to the next and glued using high pressure. To ensure stability, core layers must be uniform in moisture content, and must be of a species and quality that allows for even expansion and contraction. Instead of veneer, the core layer may include composite wood material or strips of lumber. The majority of U.S. production is by producers that purchase raw logs and peel veneer for use in the MLWF core and/or wear layer, but some purchase hardwood plywood and/or veneer from

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<sup>9</sup> Petition, p. 7.

<sup>10</sup> Testimony at the Conference in these investigations noted that lengths need to be less than 48 inches to fit into storage bays at home centers or less than the 8 feet to fit sideways into a trailer. Conference transcript, p. 109 (Finkell).

<sup>11</sup> Catalina Research, Report CR064, *Wood Flooring*, December 2009, p. 6. See exhibit 1, Sandler, Travis & Rosenberg, P.A. (on behalf of two U.S. importers and one domestic producer), postconference brief.

<sup>12</sup> *Ibid.*

<sup>13</sup> Conference transcript, p. 134 (Holm).

<sup>14</sup> Conference transcript, pp. 61-61 (Finkell).

<sup>15</sup> Conference transcript, pp. 61-62 (Natkin).

<sup>16</sup> Conference transcript, pp. 61-62 (Bowen).

<sup>17</sup> Conference transcript, p. 16 (Holm).

other unrelated manufacturers and produce the finished product from those materials. The face veneer for MLWF is selected based upon marketing considerations and consumer preferences. Face veneers are typically of high quality with few or no defects. The glues used to make MLWF are usually urea-formaldehyde based.<sup>18</sup> Once glued and pressed, the panels are sanded and cut to the desired strip or plank width. The planks or strips are then shaped with a tongue and groove on the edges of each strip or plank to facilitate installation. The tongue and groove profile allows for expansion and contraction of the wood flooring once installed. Some manufacturers incorporate a click and lock system so that the MLWF can be installed without glue or nailing as a “floating” floor. If the MLWF flooring is to be finished prior to installation (as most is), the edges of the surface are slightly beveled to hide any differences in thicknesses between planks where the planks connect to each other. The final stage of the manufacturing process involves finishing. Unless the natural color of the face veneer is preferred, a stain is applied. Flooring with a hand-scraped appearance that emulates the texture of an older, worn hardwood floor has increased in popularity over the past several years. To achieve this look, the flooring is scraped by hand with a metal scraper prior to finishing. Some manufacturers utilize machines to apply the hand-scraped texture. Whether smooth or hand-scraped, a high-durability finish is applied to the face veneer of pre-finished flooring. The final product is packaged (boxed) and sold. The basic manufacturing process for MLWF is similar for both imported and domestic MLWF.

## **DOMESTIC LIKE PRODUCT ISSUES**

The petitioner proposes that the domestic like product is co-extensive with the scope of the petition.<sup>19</sup> For purposes of the preliminary investigation, respondent Chinese Producers' Association, and respondent Lumber Liquidators, Home Legend, and U.S. Floors, do not challenge the like product as defined by Petitioners.<sup>20</sup> However, other respondents argue that there are no clear dividing lines between different wood flooring products, and therefore, the Commission should expand the definition of the domestic like product to include solid wood, vinyl, and laminate wood-look flooring.<sup>21</sup>

The Commission’s decision regarding the appropriate domestic product(s) that are “like” the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors is discussed below.

### **Physical Characteristics and Uses**

Solid wood flooring is made by sawing logs directly into lumber that is then sized, graded, profiled with tongue and groove edges, and then may or may not be finished prior to installation. The standard thickness for solid wood flooring is ¾ inch and flooring boards are generally produced in various lengths (from 12 inches up to 8 feet). Historically, 2¼ inch wide strips were fairly standard, but wider planks of 3 to 6 inches are now more common. Solid wood flooring is available in a wide assortment of species, with oak being the most prevalent. How the log is sawed can determine the

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<sup>18</sup> Petitioners note that due to California regulations enacted by the California Air Resource Board requiring lower formaldehyde emissions, the industry has been driven to use lower emitting glues in the last three years. Lower formaldehyde-emitting glues are typically more expensive than higher formaldehyde-emitting glues. Conference transcript, p. 111-113 (Natkin and Finkell).

<sup>19</sup> Petition, p. 24 and Petitioner’s postconference brief, p. 2.

<sup>20</sup> Sandler, Travis, & Rosenberg, P.A. (on behalf of two U.S. importers and one domestic producer), postconference brief, p. 8; and Chinese Producers’ Association, postconference brief, p. 3.

<sup>21</sup> Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer), postconference brief, p. 6.

particular look of the wood grain so solid wood flooring is available as plain sawn, quarter sawn, or rift sawn. The latter two types of solid wood flooring offer greater stability (less expansion and contraction) so are more typically used for wider planks, but are also more expensive. Solid wood flooring is mainly used in new construction or for housing additions. It is usually not recommended for use in basements or in areas of high humidity, and cannot be installed directly over concrete because it will absorb moisture causing it to expand and warp.

Laminate flooring is typically made from a medium or high density fiberboard board onto which a melamine impregnated printed paper or plastic overlay is pressed. The panels are cut to size and profiled with a tongue and groove or click and lock system for installation. Unlike MLWF that utilizes a wood face veneer, laminates utilize a printed surface with photographically reproduced images of wood of a particular wood species. The manufacturing process can, and often does, imprint a texture that also emulates the wood look and feel. Laminate flooring is available in a wide variety of wood-like designs and thicknesses. Unlike wood flooring that has a separate finishing process, laminates incorporate the finishing directly into the manufacturing of the material.

Vinyl wood-look plank flooring is produced using polyvinyl chloride resins along with various solvents, pigments, and other additives adhered to a carrier sheet or backing.<sup>22</sup> Designs give an appearance of wood flooring but share characteristics of sheet vinyl or vinyl tile. The product is typically less than ¼ inch thick, sold in strips, and can be installed over any kind of subfloor.<sup>23</sup>

### **Manufacturing Facilities and Production Employees**

Some producers of MLWF also produce one or more of the domestic like product alternatives proposed by respondent U.S. importers, but the alternatives are generally made using different manufacturing techniques and equipment.<sup>24</sup> Solid wood flooring, MLWF, and laminates are all made from wood that originates in log form, but the type of wood material produced from the raw logs and used in the manufacture of each product is markedly different. Solid wood flooring uses sawed solid lumber; MLWF uses veneer peeled from a log and/or sliced from lumber; and wood laminates use manufacturing residues to make the MDF or HDF base onto which the printed overlay is adhered. The types of logs (or residues) needed for each product and the basic forms in which the wood material is supplied are usually quite different. However, as noted by petitioners and respondents, some MLWF uses MDF or HDF as a core material onto which a wood veneer is glued.<sup>25</sup> Unlike solid wood flooring, MLWF, and wood laminate flooring, vinyl plank flooring is not manufactured using any form of wood fiber. Instead, it is manufactured at plants that make vinyl flooring. As noted above, vinyl flooring is made using various resins and additives to form sheets that are imprinted or imbued with decorative patterns that give the appearance of wood strips or boards.

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<sup>22</sup> See <http://www.madehow.com/Volume-4/Vinyl-Floorcovering.html> (Accessed November 18, 2010).

<sup>23</sup> Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer), postconference brief, p. 8.

<sup>24</sup> Five of 10 responding U.S. producers, and 12 of 31 responding Chinese producers, indicated that they produce products other than MLWF on similar equipment and machinery. See Part II, p. II-4 and p. II-5. However, petitioner notes that, while some U.S. manufacturers produce both solid wood flooring and MLWF, only one U.S. manufacturing facility is involved in both. See Petition, p. 25.

<sup>25</sup> Conference transcript, p. 35 (Finkell) and p. 142 (Hubbard).

## **Interchangeability**

MLWF products are generally interchangeable in the market and in their end uses, distinguished mainly by appearance and quality. Respondent U.S. importers argue that MLWF is interchangeable as well with other flooring products because consumers are looking for a particular look and are not as concerned about the material itself.<sup>26</sup> Respondent contends that all of the proposed domestic like product alternatives can be used in the same applications, over any type of existing subfloor, and all are equally suited to Do-It-Yourself consumers, builders, and remodelers. Respondent further argues that as long as they provide a wood “look” and ambience, each of the alternatives is interchangeable with MLWF.<sup>27</sup> Petitioners disagree saying that providing a “wood look” is not always acceptable.<sup>28</sup>

## **Channels of Distribution**

Details regarding the channels of distribution of domestically produced and imported MLWF are presented in Part II of this report, *Conditions of Competition in the U.S. Market*.

## **Price**

Petitioners indicate that while MLWF prices have been affected by price pressure from subject imports of MLWF, as a general matter, the most expensive laminate will have a price at or about that of the lowest priced MLWF.<sup>29</sup> However, respondents indicate MLWF and other substitute products are all sold at a variety of prices that overlap one another. They indicate that although vinyl is usually inexpensive, laminates may be just as or more expensive than MLWF or solid wood flooring and that solid wood flooring can be less or more expensive than MLWF.<sup>30</sup>

Pricing practices and prices reported for domestically produced and imported MLWF in response to the Commission’s questionnaires are presented in Part V of this report, *Pricing and Related Information*.

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<sup>26</sup> Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer), postconference brief, p. 9.

<sup>27</sup> *Ibid.*, p. 11.

<sup>28</sup> Petitioners’ postconference brief, pp. 6-7.

<sup>29</sup> Petitioners’ postconference brief, pp. 6-7.

<sup>30</sup> Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer) postconference brief, pp. 12-13.





## PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

### U.S. MARKET CHARACTERISTICS

U.S. produced MLWF made up 47.4 percent of the market in terms of volume in 2009; down from 54.5 percent in 2007. In 2009, imports from China made up 42.6 percent of the U.S. market compared to 30.5 percent in 2007.

The largest three U.S. producers (\*\*\*) represented about two-thirds of U.S. production in 2009. The four largest importers (\*\*\*) represented about 40 percent of imports of MLWF from China and about 35 percent of imports of MLWF from all sources.

Nine of 11 responding U.S. producers (including the \*\*\* producers) and 28 of 51 responding importers (including the \*\*\* importers) reported selling MLWF nationally. At least nine producers and 34 importers sold to each specified region.

### CHANNELS OF DISTRIBUTION

A majority of U.S.-produced and MLWF imported from China was sold to distributors. As shown in table II-1, in each full-year period, 93.3 to 97.6 percent of shipments of U.S.-produced MLWF were to distributors, with the rest of the shipments to end users. The share of reported U.S. shipments of U.S. imports from China sold to distributors decreased from 77.3 percent in 2007 to 63.3 in 2009. Most of this decline was due to increase in shipments by importer \*\*\* that only sells to end users and importer \*\*\* that did not report imports for 2007 and sells about 60 percent of its shipments to end users. Petitioners indicate that the majority of both U.S.-produced and U.S. imports of MLWF is also sold through distributors.<sup>1</sup>

Petitioners indicate that 60 percent of their sales go to the remodeling market, while the remaining 40 percent are for new homes.<sup>2</sup> Respondents claim that imports from China have responded to an increase in demand in the do-it-yourself segment of the market primarily supplied by big box stores and that U.S. producers have focused on supplying home builders and their independent floor covering stores.<sup>3</sup>

In 2006, U.S. manufacturers reported that 75 percent of U.S.-produced wood flooring products (including MLWF) and 55 percent of imports were sold to distributors and the remaining sales for each were directly sold to end users. Most direct sales of U.S.-produced wood flooring products were to retail building materials dealers, with the remainder split between home builders, flooring retailers, flooring installers, and homeowners. Most direct sales of U.S. imports of wood flooring products were to flooring retailers, home builders, and flooring installers.<sup>4</sup>

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<sup>1</sup> Petition, p. 26.

<sup>2</sup> Conference transcript, pp. 63-64 (Natkin, Finkell).

<sup>3</sup> Conference transcript, pp. 196-97 (Perry), pp. 198-200 (Hamar); Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer) postconference brief, pp. 19-30; and Sandler, Travis, & Rosenberg, P.A. (On behalf of two U.S. importers and one domestic producer) postconference brief, pp. 21-25.

<sup>4</sup> *Wood Flooring and Hardwood Plywood: Competitive Conditions Affecting the U.S. Industries*, Investigation No. 332-487, USITC Publication 4032, August 2008, pp. 3-17-19.

**Table II-1**

**MLWF: U.S. producers' and importers' U.S. shipments of MLWF, by sources and channels of distribution, 2007-09, and January-September 2010**

Item	Period			
	2007	2008	2009	Jan.-Sept. 2010
<b>Share of reported shipments (percent)</b>				
<b>Domestic producers' U.S. shipments of MLWF to:</b>				
Distributors	97.6	93.7	93.3	93.0
End users	2.4	6.3	6.7	7.0
<b>U.S. importers' U.S. shipments of MLWF from China:</b>				
Distributors	77.3	64.2	63.3	64.2
End users	22.7	35.8	36.7	35.8
<b>U.S. importers' U.S. shipments of MLWF from all other countries to:</b>				
Distributors	82.0	77.2	74.6	77.4
End users	18.0	22.8	25.4	22.6
Note.—Data for domestic producers include only U.S. commercial shipments.				
Source: Compiled from data submitted in response to Commission questionnaires.				

## SUPPLY AND DEMAND CONSIDERATIONS

### Supply

#### U.S. Supply

Based on available information, U.S. MLWF producers have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced MLWF to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are the availability of unused capacity, the ability to use inventories to increase shipments, the ability to produce alternate products, and the lack of supply constraints; supply responsiveness is constrained somewhat by a limited ability to ship to alternate markets.

#### *Industry capacity*

U.S. producers' capacity utilization decreased from 70.9 percent in 2007 to 47.3 percent in 2009. This level of capacity utilization indicates that U.S. producers have unused capacity with which they could increase production of MLWF in the event of a price change.

### ***Alternative markets***

Exports by U.S. producers, as a share of total shipments, decreased from \*\*\* percent in 2007 to \*\*\* percent in 2009. This level of shipments to alternative markets indicates that U.S. producers have a limited ability to divert shipments to or from alternative markets in response to changes in the price of MLWF.

### ***Inventory levels***

The ratio of end-of-period inventories to total shipments for U.S. producers increased from \*\*\* percent in 2007 to \*\*\* percent in 2009. This level of inventories indicate that U.S. producers are able to use inventories as a means of increasing shipments of MLWF to the U.S. market.

### ***Production alternatives***

Five of 11 responding U.S. producers indicated that they produce products other than MLWF on the equipment and machinery that is used to produce MLWF. Specifically, these producers indicated that they produce solid wood floors; hardwood plywood; and bamboo and cork products.

### ***Supply constraints***

All 10 responding U.S. producers indicated that they had not refused, declined, or had been unable to supply MLWF since January 2007.

### **Subject Imports from China**

Based on available information, Chinese producers have the ability to respond to changes in demand with large changes in the quantity of shipments of MLWF to the U.S. market.<sup>5</sup> The main contributing factors to the high degree of responsiveness of supply are the availability of unused capacity, the existence of alternate markets, the ability to use inventories, and most importers not facing supply constraints; supply responsiveness is constrained by an inability to switch production between MLWF and other products in response to a price change.

### ***Industry capacity***

Chinese producers' capacity utilization decreased from 68.2 percent in 2007 to 56.5 percent in 2009. This level of capacity utilization indicates that Chinese producers have unused capacity with which they could increase production of MLWF in the event of a price change.

### ***Alternative markets***

Shipments of MLWF from China to markets other than the United States (both exports to alternative markets and shipments to the home market) increased slightly from approximately 51.8 percent of total shipments in 2007 to 53.5 percent in 2009. This level of shipments relative to alternative markets indicates that subject producers in China have the ability to divert shipments to or from their home market and alternative markets in response to changes in the price of MLWF.

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<sup>5</sup> Thirty-one Chinese producers responded to the foreign producers' questionnaire. These responses are believed to account for the vast majority of Chinese export shipments to the United States.

### ***Inventory levels***

The ratio of end-of-period inventories to total shipments for the Chinese producers increased from 9.0 percent in 2007 to 11.8 percent in 2009. This level of inventories indicates that Chinese producers have the ability to use inventories as a means of increasing shipments of MLWF to the U.S. market.

### ***Production alternatives***

Twelve of 31 responding Chinese producers indicated that they produce products other than MLWF on the equipment and machinery that is used to produce MLWF. These Chinese producers also produce products such products as solid wood flooring, HDF laminate flooring, and bamboo flooring on the same equipment. However, all 30 responding Chinese producers indicated that they are not able to switch production between MLWF and other products in response to a relative change in price of MLWF.

### ***Supply constraints***

Only eight of 44 importers of Chinese-produced MLWF indicated that they had refused, declined, or been unable to supply MLWF since 2007. They cited various reasons including limited container space on steam vessels, a raw material shortage in 2009 and 2010, quality and availability issues, sometime being unable to supply specific widths or colors in a time frame acceptable to the customer, limited availability of certain species, and high demand in builder market in 2007 and 2008.

## **Demand**

Based on available information, it is likely that any change in the price level of MLWF will result in a moderate change in the quantity of MLWF demanded. The main contributing factors are existence of substitute products and the small cost share of MLWF in its end-use products.

### **Demand Characteristics**

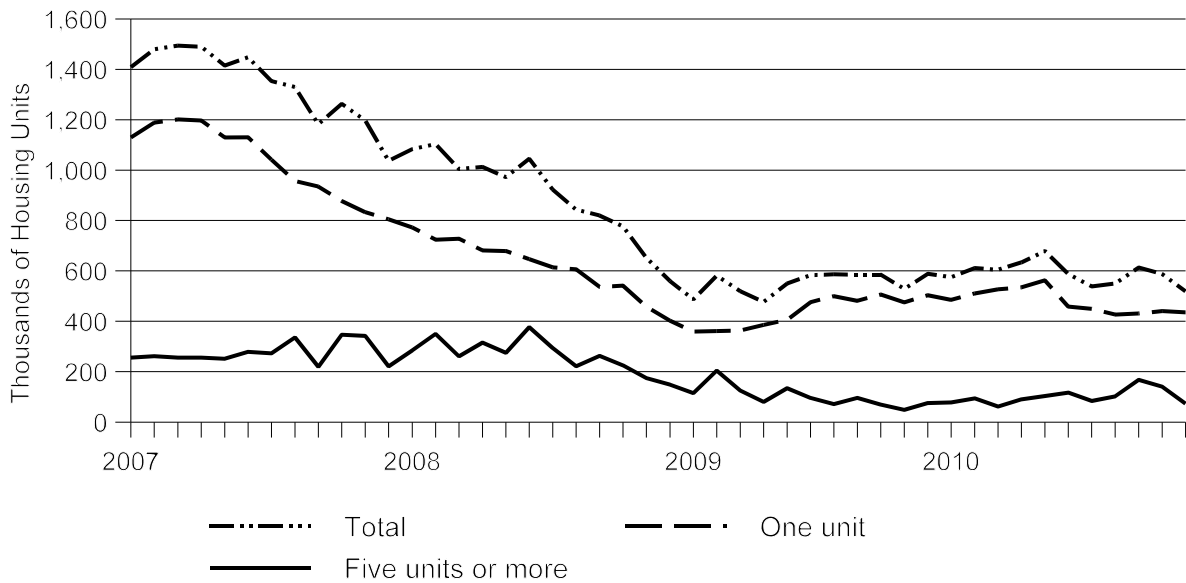
U.S. demand for wood flooring is closely tied to U.S. residential housing construction and remodeling, which account for the vast majority of sales. In particular demand for MLWF depends on housing starts, mortgage rates, disposable income, and remodeling activity.<sup>6</sup>

Seasonally adjusted housing starts decreased by 63 percent between January 2007 and October 2010 (see figure II-1). Seasonally adjusted starts for single-unit housing structures fell by 61 percent during the same period, while starts for housing structures with 5 or more units fell by 71 percent. The “Leading Indicator of Remodeling Activity” (LIRA) which measures homeowner improvements decreased by 19 percent between the first quarter of 2007 and the second quarter of 2010 (see figure II-2). The value of LIRA is projected to increase by 13 percent between the second quarter of 2010 and the second quarter of 2011.

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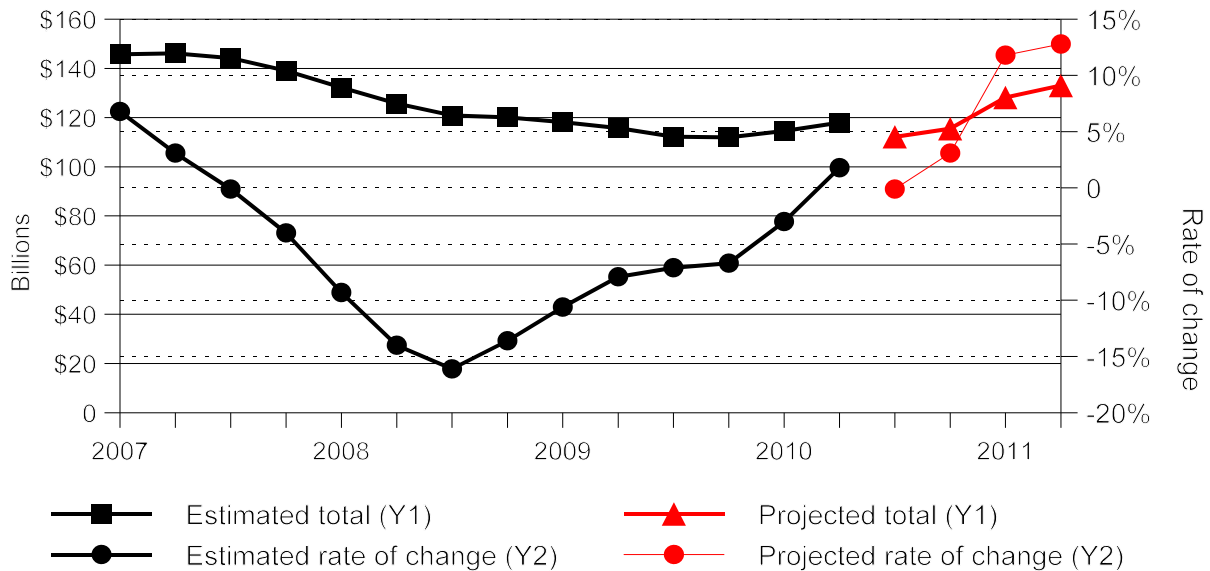
<sup>6</sup> Conference transcript, p. 19 (Holm) and p. 63 (Dougan).

**Figure II-1**  
**Housing starts: Seasonally adjusted housing starts, monthly, January 2007-October 2010**



Source: U.S. Census Bureau, Manufacturing, Mining and Construction Statistics, Construction Spending. <http://www.census.gov/const/www/c30index.html#>. (retrieved November 18, 2010).

**Figure II-2**  
**Homeowner improvements: Leading indicator of remodeling activity, four quarter moving total and rate of change, estimated and projected: quarterly, January 2007-June 2011**



Source: Joint Center for Housing Studies of Harvard University. <http://www.jchs.harvard.edu/media/lira/>. (retrieved November 18, 2010).

Seven of 11 responding U.S. producers and 28 of 50 responding importers indicated that demand for MLWF in the United States has decreased since 2007. Most of these U.S. producers and importers attributed decreased demand to declines in the economy and the housing market. Four U.S. producers and 14 importers reported that demand for MLWF has increased since 2007. Most of these U.S. producers and importers cited a shift from substitutes such as solid wood flooring and laminates due to factors such as ease of installation, stability, styling, and environmental friendliness.

Two of three responding U.S. producers and six of 21 responding importers, indicated that demand for MLWF has decreased outside the United States since 2007. One importer cited the recession and another importer cited the financial crisis as reasons for the decreased demand. One U.S. producer and five importers indicated that demand outside the United States has increased, and five importers reported that demand did not change and five importers reported that demand fluctuated.

### **Business Cycles**

Seven of 11 responding U.S. producers and 34 of 51 responding importers indicated that the MLWF market is not subject to distinctive business cycles or conditions of competition. Of the producers and importers that indicated that the MLWF market is subject to business cycles, several indicated that sales depend on the housing market; several importers indicated that sales are typically greater in late spring and summer and typically slower in the fall and winter months.

### **Substitute Products**

All 10 responding U.S. producers and 29 of 49 responding importers indicated that there are substitutes for MLWF. The most frequently cited substitutes were other types of flooring, in particular solid wood flooring and laminate flooring. Most producers and importers indicated that changes in the prices of these substitutes have not affected the price of MLWF.

Petitioners indicate that some sales of solid wood flooring have shifted to MLWF due to increased cost consciousness, ease of installation, and environmental benefits of getting more flooring for the same amount of wood. Petitioners also indicate that demand for both MLWF and laminate flooring have both increased due to increase cost consciousness.<sup>7</sup> However, respondents have indicated that sales of MLWF have shifted toward bamboo, laminates, and luxury tile.<sup>8</sup>

### **Cost Share**

MLWF generally makes up a very small share of the final cost of home construction, although it may make up a larger share of floor installation for remodeling. Petitioners estimated that an average installation of MLWF flooring might be about 1 to 2 percent of the cost of a new home.<sup>9</sup>

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported MLWF depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product

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<sup>7</sup> \*\*\*, phone interview with staff, November 18, 2010.

<sup>8</sup> Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer) postconference brief, pp. 30-32.

<sup>9</sup> Conference transcript, p. 86 (Holm) and p. 87 (Levin).

services, etc.). Based on available data, staff believes that there is a moderate to high degree of substitutability between domestically-produced MLWF and MLWF imported from China.

### **Factors Affecting Purchasing Decisions**

Petitioners indicated that MLWF producers compete primarily on the basis of price. U.S. producer Mannington Mills indicated that visual appearance was historically the driver with the end consumer, however price has now become the driver in the market.<sup>10</sup> Purchaser \*\*\* indicates that purchasing decisions for MLWF are based primarily, if not exclusively on price. This purchaser indicates that the large volume and low price of MLWF imported from China over the past few years has rendered MLWF primarily into a commodity product.<sup>11</sup> Shaw indicated that demand is more price sensitive in the builder market than the remodeling market where consumers want higher quality products.<sup>12</sup>

Respondents indicate that although price is a factor in sales of MLWF, consumer trends, taste, quality, durability, craftsmanship, product consistency, ease of installation, and service all play a significant role in the purchasing decisions of consumers. They cite a statement that price was regarded by U.S. producers as one of the least influential factors for wood flooring sales (including solid wood flooring) in a section 332 report and indicate that non-price factors continue to play a dominant role in the consumer's choice of wood flooring.<sup>13</sup>

### **Comparison of U.S.-Produced and Imported MLWF**

In order to determine whether U.S.-produced MLWF can generally be used in the same applications as imports from China, U.S. producers, U.S. importers, and U.S. purchasers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. As shown from table II-2, 64 percent of responding U.S. producers and 38 percent of responding importers indicated that MLWF produced in the United States and imported from China are “always” used interchangeably. All responding producers and two-thirds of responding importers reported that they are at least “frequently” used interchangeably. Several importers indicated that substitutability is limited by the species of wood that are available to Chinese producers and not available from U.S. producers. Some importers also indicated that substitutability is limited because imports of MLWF from China generally can be installed using a “click” technology that U.S. producers have been slower to adopt.<sup>14</sup>

At least 70 percent of responding U.S. producers, and at least 45 percent of responding importers reported that MLWF produced in the United States and imported from nonsubject countries are “always” used interchangeably. At least 75 percent of U.S. producers and at least 47 percent of importers reported that MLWF imports from China and imports from nonsubject countries are “always” used interchangeably.

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<sup>10</sup> Conference transcript, p. 25 (Natkin).

<sup>11</sup> Petition, exhibit I-13, p. 3.

<sup>12</sup> Conference transcript, p. 71 (Finkell).

<sup>13</sup> Sandler, Travis, & Rosenberg, P.A. (on behalf of two U.S. importers and one domestic producer) postconference brief, pp. 30-31. Also see *Wood Flooring and Hardwood Plywood: Competitive Conditions Affecting the U.S. Industries*, Investigation No. 332-487, USITC Publication 4032, August 2008, pp. 3-16-17.

<sup>14</sup> Conference transcript, p. 140 (Hubbard).

**Table II-2**

**MLWF: Perceived interchangeability between MLWF produced in the United States and in other countries, by country pairs**

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
<b>U.S. vs. subject countries:</b> U.S. vs. China	7	4	0	0	15	11	11	2
<b>U.S. vs. nonsubject countries:</b> U.S. vs. Brazil	8	3	0	0	10	7	3	2
U.S. vs. Canada	8	3	0	0	12	7	2	0
U.S. vs. Indonesia	7	3	0	0	11	6	5	1
U.S. vs. other nonsubject	6	2	0	0	6	4	2	0
<b>Nonsubject countries comparisons:</b> China vs. Brazil	6	2	0	0	9	7	3	0
China vs. Canada	6	2	0	0	9	7	3	0
China vs. Indonesia	6	1	0	0	9	5	3	1
China vs. other nonsubject	6	1	0	0	6	4	2	0
Brazil vs. Canada	6	2	0	0	9	5	2	1
Brazil vs. Indonesia	6	1	0	0	9	4	3	1
Brazil vs. other nonsubject	6	1	0	0	6	4	2	0
Canada vs. Indonesia	6	1	0	0	9	4	3	0
Canada vs. other nonsubject	6	1	0	0	6	4	2	0
Indonesia vs. other nonsubject	6	1	0	0	6	5	2	0
Note.--A = Always, F = Frequently, S = Sometimes, N = Never.								
Source: Compiled from data submitted in response to Commission questionnaires.								

As indicated in table II-3, 89 percent of U.S. producers and 39 percent of responding importers indicated that differences other than price between MLWF produced in the United States and imported from China were at most “sometimes” a significant factor in their sales. At least 78 percent of U.S. producers and at least 47 percent of responding importers indicated that differences other than price between MLWF produced in the United States and imported from nonsubject countries were at most “sometimes” a significant factor in their sales. The non-price factors most frequently cited by producers and importers were that some species of wood are only available in certain countries, that imported product often has longer lead times, and that style and design of MLWF varies by country.



**Table II-3**

**MLWF: Perceived differences other than price between MLWF produced in the United States and in other countries, by country pairs**

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
<b>U.S. vs. subject countries:</b> U.S. vs. China	0	1	6	2	11	14	10	6
<b>U.S. vs. nonsubject countries:</b> U.S. vs. Brazil	1	1	6	1	6	4	8	1
U.S. vs. Canada	0	0	7	2	2	2	9	3
U.S. vs. Indonesia	0	1	5	2	4	5	6	3
U.S. vs. other nonsubject	0	1	3	2	1	2	5	2
<b>Nonsubject countries comparisons:</b> China vs. Brazil	0	0	4	1	2	3	7	3
China vs. Canada	0	0	3	2	1	6	5	3
China vs. Indonesia	0	0	3	2	2	5	6	4
China vs. other nonsubject	0	0	3	2	0	2	5	2
Brazil vs. Canada	0	1	3	1	1	3	6	1
Brazil vs. Indonesia	0	0	3	2	1	4	6	2
Brazil vs. other nonsubject	0	0	3	2	0	2	5	2
Canada vs. Indonesia	0	0	3	2	1	3	7	2
Canada vs. other nonsubject	0	0	3	2	0	2	5	2
Indonesia vs. other nonsubject	0	0	3	2	0	2	5	2
Note.--A = Always, F = Frequently, S = Sometimes, N = Never.								
Source: Compiled from data submitted in response to Commission questionnaires.								



### **PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT**

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other specified factors is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 11 firms that accounted for all known U.S. production of MLWF during 2009.

#### **U.S. PRODUCERS<sup>1</sup>**

The Commission sent producer questionnaires to 15 firms identified in the petition as producers of MLWF; 11 provided completed responses that they produced MLWF during the period of investigation and 2 responded they did not.<sup>2</sup> No tolling or production in foreign trade zones was reported.

Table III-1 presents a list of current domestic producers of MLWF and each company's position on the petition, production location(s), related and/or affiliated firms, and share of reported production of MLWF in 2009. Changes in MLWF production operations since 2007 are also presented in table III-1.

Table III-2 presents data on whether U. S. producers produced other products on the same equipment and machinery used in the production of MLWF and/or using the same production and related workers employed to produce MLWF since 2007.

---

<sup>1</sup> \*\*\*.

<sup>2</sup> \*\*\*.

**Table III-1**

**MLWF: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2009 reported U.S. production**

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of reported 2009 production (percent)
Anderson Hardwood Floors, LLC <sup>1</sup>	Support	Clinton, SC	***	***
Armstrong World Industries, Inc. <sup>2</sup>	***	Lancaster, PA; Center, TX; Somerset, KY; Statesville, NC; Vicksburg, MS	***	***
Award Hardwood Floors <sup>3</sup>	***	Wausau, WI	***	( <sup>3</sup> )
Baker's Creek Wood Floors, Inc. <sup>4</sup>	***	Edwards, MS	***	( <sup>4</sup> )
Colonial Craft <sup>5</sup>	Support	Shawano, WI	***	0.0
From the Forest <sup>6</sup>	Support	Weston, WI	None	***
Howell Hardwood Flooring <sup>7</sup>	Support	Dothan, AL	None	***
Mannington Mills, Inc. <sup>8</sup>	Support	Epes, AL; High Point, NC	None	***
Mohawk Industries, Inc. <sup>9</sup>	Support	Dallas, TX	None	***
Nydree Flooring <sup>10</sup>	Support	Karthus, PA; Forest, VA	None	***
QEP Comp., Inc. <sup>11</sup>	Support	Boca Raton, FL; Johnson City, TN; Montpelier, IN	None	***
Shaw Industries Group, Inc. <sup>12</sup>	Support	Dalton, GA	***	***
US Floors, Inc. <sup>13</sup>	***	Dalton, GA	***	***

1 "\*\*\*\*"  
2 \*\*\*  
3 \*\*\*  
4 \*\*\*  
5 \*\*\*  
6 "\*\*\*\*"  
7 "\*\*\*\*"  
8 "\*\*\*\*"  
9 \*\*\*  
10 "\*\*\*\*"  
11 "\*\*\*\*"  
12 \*\*\*  
13 \*\*\*

Source: Compiled from data submitted in response to Commission questionnaires.

**Table III-2**

**MLWF: U.S. producers' reported use of machinery, equipment, and workers used for MLWF and other nonsubject products, 2007-09, January-September 2009, and January-September 2010**

\* \* \* \* \*

**U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION**

U.S. producers' capacity, production, and capacity utilization data for MLWF are presented in table III-3.

**Table III-3**

**MLWF: U.S. capacity, production, and capacity utilization, 2007-09, January-September 2009, and January-September 2010<sup>1</sup>**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
Capacity (1,000 square feet)	249,098	286,098	270,142	208,437	187,616
Production (1,000 square feet)	176,512	156,180	127,705	95,673	106,486
Capacity utilization (percent)	70.9	54.6	47.3	45.9	56.8
<sup>1</sup> ***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Over the period examined, two producers, \*\*\*, reported line (\*\*\*) closings in 2007. In addition to the plant closures, three producers experienced prolonged shutdowns or production curtailments during the period examined. \*\*\* described shutdowns lasting one to five months. \*\*\* detailed shift eliminations in its two locations, with the work week shortened to 4 days, as well as one week shutdowns “multiple times a year.” \*\*\* has also had one week shutdowns on five different occasions. Also, \*\*\* consolidated its production to one location. Four producers, \*\*\*, opened new facilities. In addition, \*\*\*.

**U.S. PRODUCERS' SHIPMENTS**

Over the period examined, U.S. commercial shipments accounted for the vast majority of U.S. producers' shipments. U.S. producers generally supplied the domestic U.S. market but not foreign markets. Between 2007 and 2009, the value of U.S. producers' U.S. shipments declined by 21 percent, with most of this decline occurring between 2008 and 2009. Unit values for shipments of all U.S.-produced MLWF decreased irregularly between 2007 and 2009.

Data on U.S. producers' shipments of MLWF are presented in table III-4. No internal consumption or transfers were reported. \*\*\* reported exports to \*\*\*.

**Table III-4**  
**MLWF: U.S. producers' shipments, by types, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
<b>Quantity (1,000 square feet)</b>					
Commercial shipments	165,271	157,455	131,824	96,892	104,767
Internal consumption	0	0	0	0	0
Transfers to related firms	0	0	0	0	0
U.S. shipments	165,271	157,455	131,824	96,892	104,767
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
<b>Value (1,000 dollars)</b>					
Commercial shipments	437,743	423,262	345,687	252,096	271,258
Internal consumption	0	0	0	0	0
Transfers to related firms	0	0	0	0	0
U.S. shipments	437,743	423,262	345,687	252,096	271,258
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
<b>Unit value (per square feet)</b>					
Commercial shipments	\$2.65	\$2.69	\$2.62	\$2.60	\$2.59
Internal consumption	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Transfers to related firms	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
U.S. shipments	2.65	2.69	2.62	2.60	2.59
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
<b>Share of quantity (percent)</b>					
Commercial shipments	***	***	***	***	***
Internal consumption	0.0	0.0	0.0	0.0	0.0
Transfers to related firms	0.0	0.0	0.0	0.0	0.0
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> Not applicable. Note.—Because of rounding, figures may not add to the totals shown. Source: Compiled from data submitted in response to Commission questionnaires.					

## U.S. PRODUCERS' INVENTORIES

Table III-5, which presents end-of-period inventories for MLWF, shows that inventories rose between 2007 and 2008 before falling in 2009 and continuing to decline in 2010.

**Table III-5**

**MLWF: U.S. producers' end-of-period inventories, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
Inventories ( <i>1,000 square feet</i> )	26,892	30,445	25,328	27,539	25,841
Ratio to production ( <i>percent</i> )	15.2	19.5	19.8	21.6	18.2
Ratio to U.S. shipments ( <i>percent</i> )	16.3	19.3	19.2	21.3	18.5
Ratio to total shipments ( <i>percent</i> )	***	***	***	***	***

Note.—Partial-year ratios are based on annualized production and shipments.

Source: Compiled from data submitted in response to Commission questionnaires.

## U.S. PRODUCERS' IMPORTS AND PURCHASES

Six of the 11 U.S. producers imported directly and/or purchased MLWF from China and nonsubject sources during the period for which data were collected. Nonsubject sources include Brazil, Indonesia, Paraguay, Serbia, and Sweden. In 2009, U.S. producers that imported directly or purchased imports of MLWF represented \*\*\* percent of the total reported quantity of U.S. imports, \*\*\* percent of U.S. imports from China, and \*\*\* percent of U.S. imports from all other sources. Reasons for importing MLWF include: (1) to obtain exotic species not produced in the United States, (2) lower prices, and (3) to remain competitive in the U.S. market. U.S. producers' imports and purchases of MLWF are presented in table III-6.

**Table III-6**

**MLWF: U.S. producers' imports and purchases, 2007-09, January-September 2009, and January-September 2010**

\* \* \* \* \*

## U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for MLWF are presented in table III-7. \*\*\* were unable to supply employment data.

**Table III-7****MLWF: U.S. producers' employment-related data, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
Production and related workers (PRWs)	2,357	2,463	2,077	2,021	2,052
Hours worked by PRWs ( <i>1,000 hours</i> )	5,080	4,984	4,083	2,948	3,168
Hours worked per PRW	2,155	2,024	1,966	1,459	1,544
Wages paid to PRWs ( <i>1,000 dollars</i> )	67,079	67,986	56,388	41,170	43,400
Hourly wages	\$13.20	\$13.64	\$13.81	\$13.96	\$13.70
Productivity ( <i>square feet produced per hour</i> )	31.2	29.8	29.5	30.3	31.4
Unit labor costs ( <i>per square foot</i> )	\$0.42	\$0.46	\$0.47	\$0.46	\$0.44
Note.-***.					
Source: Compiled from data submitted in response to Commission questionnaires.					



## PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

### U.S. IMPORTERS

Importer questionnaires were sent to 200 firms believed to be importers of subject MLWF, as well as to all U.S. producers of MLWF.<sup>1</sup> Usable questionnaire responses were received from 50 companies, representing the majority of U.S. imports from China between January 2007 and September 2010, as defined in Part I.<sup>2</sup> Table IV-1 lists all responding U.S. importers of MLWF from China and other sources, their locations, and their shares of U.S. imports, in 2009.

**Table IV-1  
MLWF: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2009**

Firm	Headquarters/ operation locations	Source of reported imports	Share of reported imports (percent)		
			China	Other	Total
A&W Group, Inc.	El Monte, CA	***	***	***	***
Allwood Import, LLC	Portland, OR	***	***	***	***
Anderson Hardwood Floors, LLC	Clinton, SC	***	***	***	***
Armstrong	Lancaster, PA	***	***	***	***
B&M Noble Co.	San Diego, CA	***	***	***	***
BR Custom Surface	Baton Rouge, LA	***	***	***	***
Brandywine International Hardwood LLC	Pennsauken, NJ	***	***	***	***
Costco Wholesale Corporation	Issaquah, WA	***	***	***	***
Courey International USA, Inc.	Miami, FL	***	***	***	***
CSC Corp.	Ontario, CA	***	***	***	***
Diamond W Supply Co., Inc.	City of Industry, CA	***	***	***	***
Easoon USA, LLC	Atlanta, GA	***	***	***	***

Table continued on next page.

<sup>1</sup> The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have imported at least \$500,000 of MLWF since 2007.

<sup>2</sup> All parties agree responses to the Commission’s importer questionnaire provide reliable importer data, although the respondents suggest that the Chinese exports to the United States would provide acceptable data; as there is no value associated with this data. Petitioner’s postconference brief, p. 12; Chinese Producers’ Association postconference brief, p. 13; Dorsey & Whitney LLP (on behalf of 12 U.S. importers and one Chinese producer) postconference brief, p. 18; Mowry & Grimson, LLC (on behalf of a U.S. importer and Chinese producer) postconference brief, pp. 3-4; and Sandler, Travis & Rosenberg, P.A. (on behalf of two U.S. importers and one domestic producer) postconference brief, p. 308.

**Table IV-1--Continued**

**MLWF: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2009**

Firm	Headquarters/ operation locations	Source of reported imports	Share of reported imports (percent)		
			China	Other	Total
E.C. Barton & Company	Jonesboro, AR	***	***	***	***
Elegance Exotic Wood Flooring	Fontana, CA	***	***	***	***
Galleher	Santa Fe Springs, CA	***	***	***	***
Hallmark Hardwoods, Inc.	Ontario, CA	***	***	***	***
Home Legend LLC	Adairsville, GA; Calhoun, CA	***	***	***	***
IKE Trading Co.	Beaverton, OR	***	***	***	***
Intech Sourcing, Inc.	Hutto, TX	***	***	***	***
J. J. Haines	Glen Burnie, MD	***	***	***	***
J. Michael & Co. LLC	Carrollton, TX	***	***	***	***
Johnson Premium Hardwood Flooring	City of Industry, CA	***	***	***	***
Leadman Flooring LLC	Norcross, GA	***	***	***	***
Lumber Liquidators Holdings, Inc.	Toano, VA	***	***	***	***
Mannington Mills, Inc.	Salem, NJ	***	***	***	***
Mohawk Industries	Calhoun, GA	***	***	***	***
Mullican Flooring, L.P.	Johnson City, TN	***	***	***	***
Nature Flooring Industries, Inc.	Exton, PA	***	***	***	***
New Harbors Corporation	Ontario, CA	***	***	***	***
Old Master Products	Van Nuys, CA	***	***	***	***
Omni Wood Flooring, Inc.	Ontario, CA	***	***	***	***
Patriot Flooring Supply Inc.	Pompton Plains, NJ	***	***	***	***
Pinnacle Interior Elements, Ltd.	Carrollton, TX	***	***	***	***
Primavera Distributing	Chattanooga, TN	***	***	***	***
Provenza Floors, Inc.	Santa Ana, CA	***	***	***	***
QEP Co., Inc.	Boca Raton, FL	***	***	***	***
Real Wood Floors	West Plains, MO	***	***	***	***
Regal Hardwoods, Inc.	Farmers Branch, TX	***	***	***	***

Table continued on next page.

**Table IV-1--Continued**

**MLWF: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2009**

Firm	Headquarters/ operation locations	Source of reported imports	Share of reported imports (percent)		
			China	Other	Total
Robina Wood, Inc.	Kennesaw, GA	***	***	***	***
Royalty Intl. Group, Inc.	San Gabriel, CA	***	***	***	***
Shamrock Wood Industries, Inc.	Horn Lake, MS	***	***	***	***
Shaw Industries Group, Inc.	Dalton, GA	***	***	***	***
Somerset Hardwood Flooring, Inc.	Somerset, KY	***	***	***	***
Swift-Train Co., LLC	Houston, TX	***	***	***	***
Tuscan Floors Distributor, Corp.	Dallas, TX	***	***	***	***
Urban Global LLC	City of Industry, CA	***	***	***	***
US Floors, Inc.	Dalton, GA	***	***	***	***
WEGO Chemical & Mineral Corp.	Great Neck, NY	***	***	***	***
Weyerhaeuser Co.	Federal Way, WA	***	***	***	***
World Data & Media, Inc.	City of Industry, CA	***	***	***	***
World Product Sourcing, Inc.	Augusta, GA	***	***	***	***
Note.--Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

### U.S. IMPORTS

Table IV-2 presents data for U.S. imports of MLWF from China and all other sources as reported by the 50 responding U.S. importers.

**Table IV-2**  
**MLWF: U.S. imports, by sources, 2007-09, January-September 2009, and January-September 2010**

Source	Calendar year			January-September	
	2007	2008	2009	2009	2010
<b>Quantity (1,000 square feet)</b>					
China	100,199	133,722	113,470	88,011	113,025
Nonsubject	45,327	33,071	23,761	18,677	16,353
Total	145,527	166,793	137,231	106,688	129,378
<b>Value (1,000 dollars)</b>					
China	241,263	313,557	255,522	194,806	258,162
Nonsubject	84,309	76,913	48,090	40,138	34,954
Total	325,572	390,470	303,612	234,944	293,116
<b>Unit value (per square foot)</b>					
China	\$2.41	\$2.34	\$2.25	\$2.21	\$2.28
Nonsubject	1.86	2.33	2.02	2.15	2.14
Average	2.24	2.34	2.21	2.20	2.27
<b>Share of quantity (percent)</b>					
China	68.9	80.2	82.7	82.5	87.4
Nonsubject	31.1	19.8	17.3	17.5	12.6
Total	100.0	100.0	100.0	100.0	100.0
<b>Share of value (percent)</b>					
China	74.1	80.3	84.2	82.9	88.1
Nonsubject	25.9	19.7	15.8	17.1	11.9
Total	100.0	100.0	100.0	100.0	100
Source: Compiled from responses to Commission's questionnaires.					

### NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>3</sup> Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the

<sup>3</sup> Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.<sup>4</sup> Imports from China accounted for 82.7 percent of total imports of MLWF by quantity during 2009 and 86.6 percent of total imports between October 1, 2009 and September 31, 2010.

### APPARENT U.S. CONSUMPTION

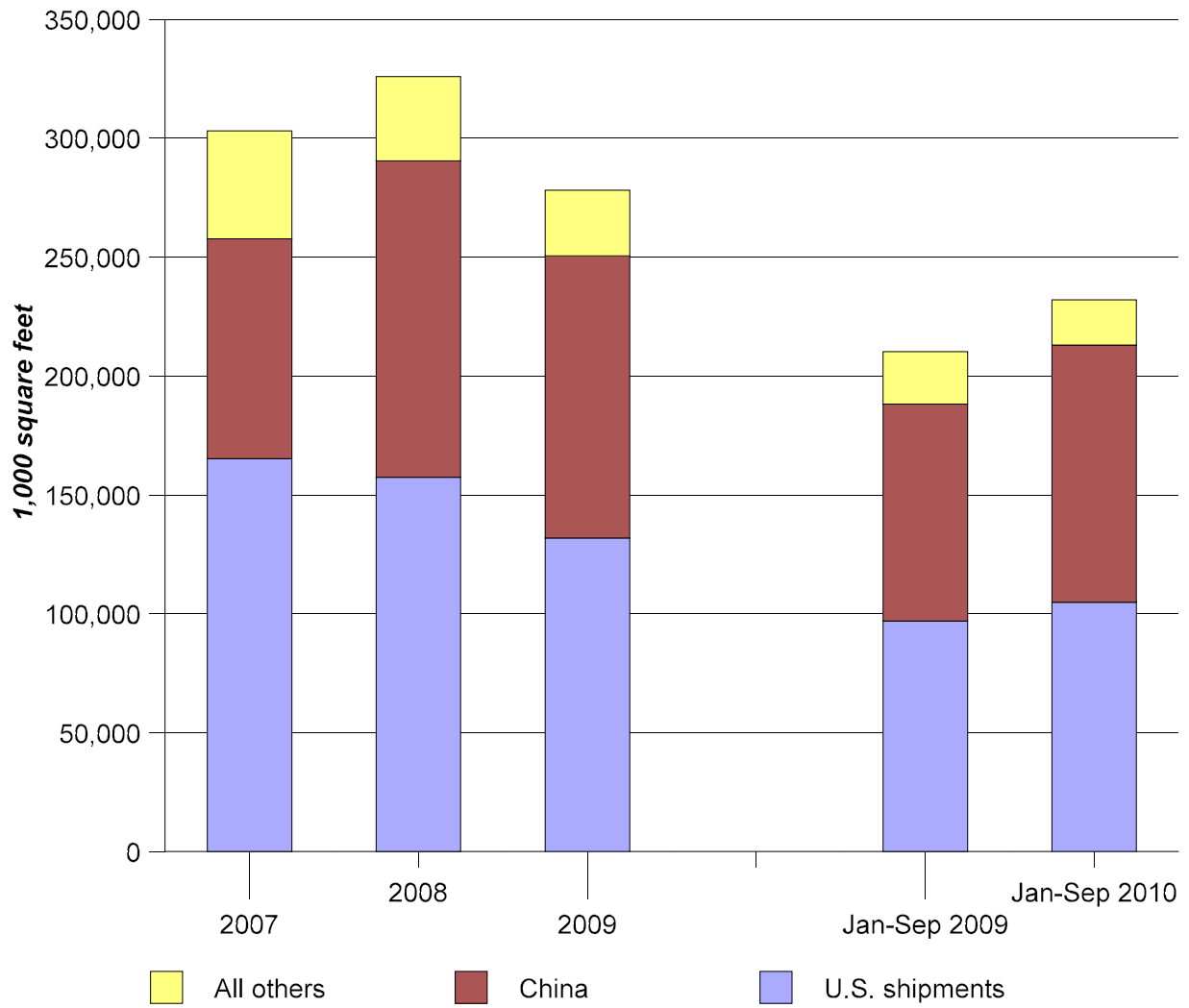
Data concerning apparent U.S. consumption of MLWF during the period of investigation are shown in table IV-3 and figure IV-1.

**Table IV-3**  
**MLWF: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
<b>Quantity (1,000 square feet)</b>					
U.S. producers' U.S. shipments	165,271	157,455	131,824	96,892	104,767
U.S. shipments of imports from-- China	92,367	132,946	118,590	91,275	108,230
Nonsubject countries	45,404	35,470	27,643	22,019	18,985
Total U.S. imports	137,771	168,415	146,233	113,295	127,215
Apparent U.S. consumption	303,042	325,870	278,057	210,187	231,982
<b>Value (1,000 dollars)</b>					
U.S. producers' U.S. shipments	437,743	423,262	345,687	252,096	271,258
U.S. shipments of imports from-- China	252,195	364,093	319,566	245,003	286,987
Nonsubject countries	108,274	91,208	70,965	55,512	49,074
Total U.S. imports	360,469	455,301	390,531	300,515	336,062
Apparent U.S. consumption	798,212	878,563	736,218	552,611	607,320
Note.--Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

<sup>4</sup> Section 771(24) of the Act (19 U.S.C. § 1677(24)).

**Figure IV-1**  
**MLWF: Apparent U.S. consumption, by sources, 2007-09, January-September 2009, and January-September 2010**



Source: Table IV-3.

## U.S. MARKET SHARES

U.S. market share data are presented in table IV-4.

**Table IV-4**

**MLWF: U.S. consumption and market shares, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
<b>Quantity (1,000 square feet)</b>					
Apparent U.S. consumption	303,042	325,870	278,057	210,187	231,982
<b>Value (1,000 dollars)</b>					
Apparent U.S. consumption	798,212	878,563	736,218	552,611	607,320
<b>Share of quantity (percent)</b>					
U.S. producers' U.S. shipments	54.5	48.3	47.4	46.1	45.2
U.S. imports from-- China	30.5	40.8	42.6	43.4	46.7
Nonsubject countries	15.0	10.9	9.9	10.5	8.2
All countries	45.5	51.7	52.6	53.9	54.8
<b>Share of value (percent)</b>					
U.S. producers' U.S. shipments	54.8	48.2	47.0	45.6	44.7
U.S. imports from-- China	31.6	41.4	43.4	44.3	47.3
Nonsubject countries	13.6	10.4	9.6	10.0	8.1
All countries	45.2	51.8	53.0	54.4	55.3
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

## RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of MLWF is presented in table IV-5. The ratio of U.S. imports to U.S. production rose throughout the period of investigation.

**Table IV-5**  
**MLWF: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
<b>Quantity (1,000 square feet)</b>					
U.S. production	176,512	156,180	127,705	95,673	106,486
Imports from:					
China	100,199	133,722	113,470	88,011	113,025
Nonsubject countries	45,327	33,071	23,761	18,677	16,353
Total imports	145,527	166,793	137,231	106,688	129,378
<b>Ratio of U.S. imports to production (percent)</b>					
Imports from:					
China	56.8	85.6	88.9	92.0	106.1
Nonsubject countries	25.7	21.2	18.6	19.5	15.4
Total imports	82.4	106.8	107.5	111.5	121.5
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					



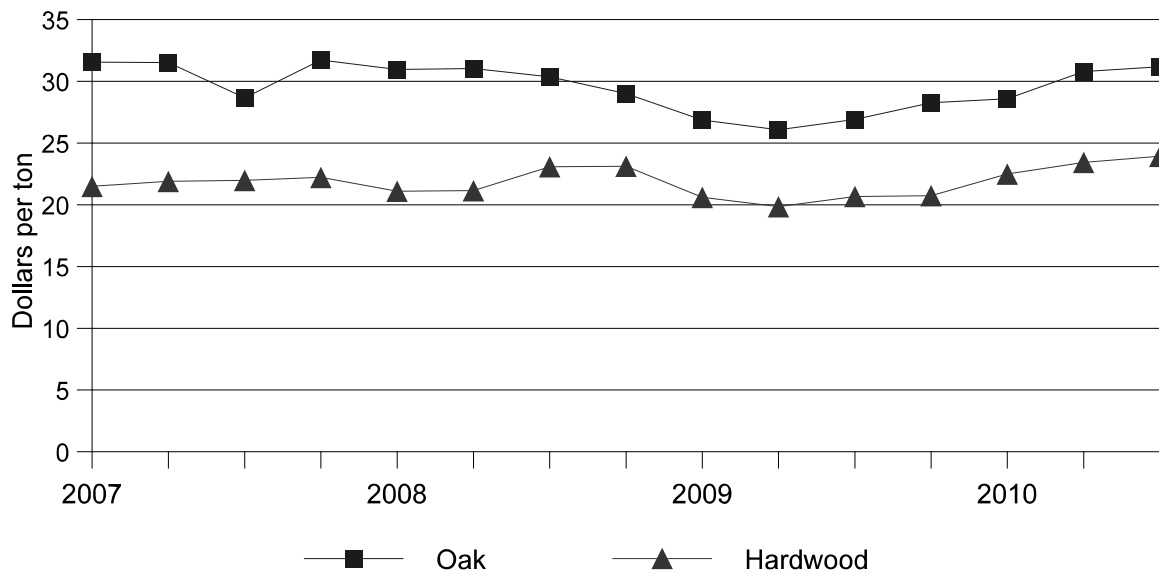
## PART V: PRICING AND RELATED INFORMATION

### FACTORS AFFECTING PRICES

#### Raw Material Costs

Raw material costs accounted for 45 to 49 percent of the total cost of goods sold for U.S. producers during 2007 to 2009. Sawtimber is the main raw material used to produce MLWF. The average Timber Mart-South prices for oak and hardwood sawtimber has fluctuated since 2007, with the price of oak sawtimber falling by about 1 percent and the price of hardwood sawtimber increasing by 11 percent (see figure V-1).

**Figure V-1**  
**MLWF: Average Timber Mart-South sawtimber prices, by quarter, January 2007-September 2010**



Source: Timber Mart-South.

#### U.S. Inland Transportation Costs

Transportation costs for U.S. inland shipments of MLWF generally account for a small-to-moderate share of the delivered price of these products. Most U.S. producers reported that the costs ranged from less than 2 percent to 10 percent of the delivered price for MLWF. Most responding U.S. importers reported that such costs were 3 percent to 15 percent of the delivered price of MLWF.

## **PRICING PRACTICES**

### **Pricing Methods**

Most U.S. producers and importers reported making sales of MLWF on a spot basis. Five of nine responding U.S. producers and 24 of 48 responding importers reported making at least 80 percent of their sales on a spot basis. The four remaining producers and 18 importers reported making at least 80 percent of their sales on a short-term contract basis of one year or less. Three importers reported making at least 80 percent of their sales on a long-term contract basis of two to five years.

Most firms reported setting prices on using a price list, although some firms set price on a transaction-by-transaction basis or contracts for multiple shipments. All 11 responding producers and 37 of 51 responding importers reported using a price list. Four of 11 responding producers and 21 of 51 responding purchasers reported setting prices on a transaction-by-transaction basis. Three producers and 10 importers reported using contracts for multiple shipments.

Eight of 11 responding U.S. producers and 28 of 49 responding importers reported making their sales on a f.o.b. basis only. Two U.S. producers and 19 importers reported making their sales only on a delivered basis and the two remaining responding importers reported making their sales on both f.o.b. and delivered bases. Eight of 10 responding U.S. producers and 28 of 49 importers reported that at least 80 percent of their sales of MLWF are from U.S. inventory and additional three importers reported making at least 69 percent of their sales from foreign inventory. Two responding producers (\*\*\*) and 10 importers reported that at least 80 percent of their sales are made to order.

### **Lead Times**

U.S. producers reported lead times from inventory of up to four weeks and lead times for sales of product-to-order of five days to six weeks. Lead times for delivery for most responding U.S. importers ranged up to 60 days on sales from U.S. inventory, 45 to 90 days on sales from foreign inventory, and 45 to 120 days on sales of product produced-to-order. Six of 11 responding U.S. producers and 38 of 49 responding importers reported that they generally arrange for the transportation to their customers' locations. Seven of 10 responding U.S. producers and 16 of 45 responding importers reported making at least 50 percent of their sales within 101 to 1,000 miles from their point of shipment. No U.S. producers and 17 responding importers reported making at least 68 percent of their sales within 100 miles from their point of shipment. Two producers and six importers reported making at least 60 percent of their sales over 1,000 miles from their point of shipment. Thirty-seven of 50 responding importers reported shipping from their storage facility and the remaining responding importers reported shipping from their point of importation.

### **Sales Terms and Discounts**

Seven of 11 responding producers and 24 of 51 responding importers reported the use of quantity discounts, three U.S. producers and nine importers reported using annual volume discounts, and one U.S. producer and 19 importers reported having no discount policy. Four of 10 responding U.S. producers and 17 of 51 responding importers indicated they offered other discounts such as quarterly sales discounts, discounts for payment terms, and rebates.

## PRICE DATA

The Commission requested U.S. producers and importers of MLWF to provide quarterly data for the total quantity and f.o.b. value of MLWF that was shipped to unrelated customers in the U.S. market during January 2007-September 2010. The products for which pricing data were requested are as follows:

***Product 1.***--Multilayered wood flooring, 9.5 mm ( $\frac{3}{8}$  inch) thick, red oak-face product, prefinished (veneer core), 125 mm (5 inches) width or less

***Product 2.***--Multilayered wood flooring, 9.5 mm ( $\frac{3}{8}$  inch) thick, maple-face product, prefinished (veneer core), 125 mm (5 inches) width or less

***Product 3.***--Multilayered wood flooring, 9.5 mm ( $\frac{3}{8}$  inch) thick, prefinished (MDF or similar core), 125 mm (5 inches) width or less

***Product 4.***--Multilayered wood flooring, 12.5 mm ( $\frac{1}{2}$  inch) thick, hickory-face, hand scraped, prefinished (veneer core), 125 mm (5 inches) width or less

Six U.S. producers and 36 importers of MLWF from China provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.<sup>1</sup> Pricing data reported by these firms accounted for approximately 45 percent of U.S. producers' shipments of MLWF, and 18 percent of U.S. shipments of subject imports from China in 2009.

## Price Trends

Price data are shown in tables V-1 to V-4 and figure V-2. Nonsubject price data are presented in appendix G. Price trend summary data are presented in table V-5. Weighted-average sales prices for U.S.-produced products 1 and 2 increased by 1.4 and 4.2 percent, respectively, while prices for U.S.-produced products 3 and 4 decreased by -0.7 and -22.7 percent, respectively. Weighted average sales prices of products 1-3 imported from China increased by 7.2 to 9.5 percent, and the price of product 4 decreased by 33.2 percent.

**Table V-1**

**MLWF: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2007-September 2010**

\* \* \* \* \*

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<sup>1</sup> Price data reported for product 3 reported by \*\*\* and importer \*\*\* were not included because the data was characterized as including data for all products not matching the description of products 1, 2, and 4. Price data reported by reported by importer \*\*\* for product 4 and U.S. producer \*\*\* for products 1 and 2 were not included because they appear to be premium products that are not competitive with the product described. \*\*\*, \*\*\*. Email correspondence with \*\*\*, November 18, 2010.

**Table V-2**

**MLWF: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2007-September 2010**

\* \* \* \* \*

**Table V-3**

**MLWF: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2007-September 2010**

\* \* \* \* \*

**Table V-4**

**MLWF: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January 2007-September 2010**

\* \* \* \* \*

**Figure V-2**

**MLWF: Weighted-average f.o.b. prices and quantities of domestic and imported product, by quarters, January 2007-September 2010**

\* \* \* \* \*

**Table V-5**

**MLWF: Summary of weighted-average f.o.b. prices for products 1-4 from the United States and China**

Item	Number of quarters	Low price (per square foot)	High price (per square foot)	Change in price <sup>1</sup> (percent)
<b>Product 1</b>				
United States	15	\$1.56	\$2.14	1.4
China	15	2.44	2.99	9.5
<b>Product 2</b>				
United States	15	2.88	3.69	4.2
China	15	2.14	2.58	8.4
<b>Product 3</b>				
United States	15	2.03	2.67	-0.7
China	15	1.68	2.31	7.2
<b>Product 4</b>				
United States	15	4.37	5.65	-22.7
China	15	2.40	3.63	-33.2

<sup>1</sup> Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data.

Source: Compiled from data submitted in response to Commission questionnaires.

## Price Comparisons

Margins of underselling and overselling for the period are presented in table V-6. As can be seen from the table, prices for MLWF imported from China were below those for U.S.-produced MLWF in 42 of 60 instances; margins of underselling ranged from 0.3 to 49.2 percent. In the remaining 18 instances, prices for MLWF imported from China were above those for U.S.-produced MLWF; margins of overselling ranged from 1.3 to 56.1 percent.

**Table V-6**  
**MLWF: Instances of underselling/overselling and the range and average of margins, January 2007-September 2010**

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	42	0.3 to 49.2	27.9	18	1.3 to 56.1	27.5

Source: Compiled from data submitted in response to Commission questionnaires.

## LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of MLWF to report any instances of lost sales or revenues they experienced due to competition from imports of MLWF from China since January 2007. \*\*\* provided allegations of lost sales \*\*\*. \*\*\* provide lost sales and revenue allegations.<sup>2</sup> Of the four responding non-petitioning U.S. producers, three reported that they had to either reduce prices or roll back announced price increases and three indicated that they had lost sales of MLWF from China. The 22 lost sales allegations totaled \$509 thousand and involved 135 thousand square feet of MLWF and the 11 lost revenue allegations totaled \$1.0 million and \$2.4 million square feet of MLWF. Staff attempted to contact all of the alleged purchasers, and a summary of the information obtained follows (tables V-7 and V-8).

**Table V-7**  
**MLWF: U.S. producers' lost sales allegations**

\* \* \* \* \*

**Table V-8**  
**MLWF: U.S. producers' lost revenue allegations**

\* \* \* \* \*

Seven of 10 responding purchasers named in lost sales and lost revenue allegations indicated that they switched purchases of MLWF from U.S. producers to suppliers of MLWF from China since January 2007. All seven purchasers indicated that price was the reason for the shift. One of these seven purchasers (\*\*\*) indicated that both price and species were reasons for the shift as it moved to a birch product priced at \$\*\*\* per square foot. Seven of eight responding purchasers named in lost sales and lost revenue allegations indicated that U.S. producers reduced their prices of MLWF in order to compete with

<sup>2</sup> In addition, U.S. producer \*\*\*. \*\*\*, phone interview with staff, November 18, 2010.

prices of MLWF from China since January 2007. Some purchasers did not specifically respond “yes” or “no” to the question, but provided comments. \*\*\* indicated that although U.S. producers have reduced prices on some MLWF, it has not seen an across the board price reduction for MLWF. \*\*\* said that there have been instances of both prices increases and decreases for engineered wood products, but as a distributor it cannot speculate as to the specific rationale for producer pricing strategy and decisions.

Purchasers specifically “agreed” with lost sales allegations totaling \$33,045 which represents 6 percent of the value of all lost sales allegations and with lost revenue allegations totaling \$120,000 which represent 12 percent of the value all lost revenue allegations made by U.S. producers. Purchasers specifically “disagreed” with lost sales allegations totaling \$38,128, which represents 7 percent of the value of all lost sales allegations and specifically “disagreed” with lost revenue allegations totaling \$68,400 or 7 percent of all lost revenue allegations. Purchasers did not specifically “agree” or “disagree” with lost sales allegations totaling \$145,178 or 33 percent of the value of all lost sales allegations and lost revenue allegations totaling \$240,000 or 23 percent of the value these allegations, but provided narrative responses that are summarized on the following pages.

\*\*\* indicated that there is insufficient data in their system regarding a sale of this size (\$\*\*\*) on or around the date indicated.

\*\*\* disagreed with two lost revenue allegations involving his firm. He indicated that his company purchases this product frequently from U.S. producer \*\*\*, but has no information to confirm the specific allegation.<sup>3</sup> \*\*\* noted that his company has no general strategy or intent to switch to imported products and that purchases are driven by many factors including design, distributing rights, and price. He also indicated that his company continues to purchase from U.S. producers. \*\*\* said that there have been instances of both prices increases and decreases for engineered wood products, but as a distributor he cannot speculate as to the specific rationale for producer pricing strategy and decisions.

\*\*\* disagreed with the lost revenue allegation involving his firm. He indicated that his firm purchased the product at lower price because of decreased demand for MLWF. \*\*\* indicated that there lower prices are not product specific and that U.S. producers have been lowering their prices also.<sup>4</sup>

\*\*\* disagreed with the lost sales allegation involving his firm. He indicated that his company does not stock the hickory face product imported from China because the price is higher, but that his company moved to importing a birch species that was priced at the same price as the alleged accepted quote for the imported product (\*\*\*).

\*\*\* disagreed with one lost sales allegation and indicated that his company has no record of the lost revenue allegation and two lost sales allegations made regarding his firm. He disagreed with the \*\*\* lost sales allegation indicating that the product was purchased at the alleged rejected quote for the U.S. product.

In addition, to the lost sales allegations, petitioners provided \*\*\* regarding lost sales. \*\*\*.<sup>5</sup>

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<sup>3</sup> \*\*\*, phone interview with staff, December 2, 2010.

<sup>4</sup> \*\*\*, phone interview with staff, November 30, 2010.

<sup>5</sup> Petition, exhibit I-13, pp. 2-3.

## **PART VI: FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS**

### **INTRODUCTION**

Ten U.S. firms provided usable financial data on their operations on MLWF.<sup>1</sup> These data are believed to account for the large majority of U.S. operations on MLWF. No firms reported internal consumption, transfers to related firms, or tolling operations. All firms reported a fiscal year end on or near December 31 \*\*\*. During the period of investigation, the domestic MLWF industry experienced a number of developments in terms of acquisitions and new market participants. In August/September 2007, Mohawk acquired the assets of Columbia Flooring, and Anderson became an independent subsidiary of Shaw. U.S. producers From the Forest, U.S. Floors, and Colonial Craft reported that they began production in 2007, 2009, and 2010, respectively.

### **OPERATIONS ON MLWF**

Income-and-loss data for U.S. firms on their operations on MLWF are presented in table VI-1, while selected financial data, by firm, are presented in table VI-2. The domestic industry experienced declines in net sales quantity and value, as well as profitability, from 2007 to 2009, with the operating margin declining from 4.7 percent in 2007 to negative 8.7 percent in 2009. Between the comparable interim periods, both net sales quantity and value improved; while the operating margin also improved, it still remained an operating loss in interim 2010.<sup>2</sup> The per-square foot net sales value remained unchanged from 2007 to 2009, while operating costs and expenses (cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses, combined) increased, which led to operating losses in 2008 and 2009. Between the comparable interim periods, the per-square foot operating costs and expenses declined, while revenue remained unchanged, which led to a smaller operating loss.

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<sup>1</sup> The U.S. producers are \*\*\*.

<sup>2</sup> Petitioners state that the reduced operating loss between the comparable interim periods was the result of the Federal homebuyer tax credit, which benefitted U.S. producers of MLWF during the first half of 2010. Petitioners’ postconference brief, p. 26.

Table VI-1

## MLWF: Results of operations of U.S. producers, 2007-09, January-September 2009, and January-September 2010

Item	Fiscal year			January-September	
	2007	2008	2009	2009	2010
<b>Quantity (1,000 square feet)</b>					
Total net sales	155,281	151,891	124,896	91,461	98,871
<b>Value (\$1,000)</b>					
Total net sales	409,961	411,206	329,611	238,367	258,378
COGS	327,176	353,766	295,831	214,707	221,676
Gross profit	82,785	57,440	33,780	23,660	36,702
SG&A expenses	63,705	74,996	62,488	46,762	48,065
Operating income/(loss)	19,080	(17,556)	(28,708)	(23,102)	(11,363)
Interest expense	45	159	153	127	91
Other income/(expense)	2,930	256	(14,581)	(1)	(250)
Net income/(loss)	21,965	(17,459)	(43,442)	(23,230)	(11,704)
Depreciation	13,327	13,357	15,162	10,816	11,919
Cash flow	35,292	(4,102)	(28,280)	(12,414)	215
<b>Ratio to net sales (percent)</b>					
COGS:					
Raw materials	38.8	40.3	40.7	41.0	39.6
Direct labor	12.1	14.4	15.0	15.3	14.5
Other factory costs	28.9	31.3	34.1	33.8	31.7
Total COGS	79.8	86.0	89.8	90.1	85.8
Gross profit	20.2	14.0	10.2	9.9	14.2
SG&A expenses	15.5	18.2	19.0	19.6	18.6
Operating income/(loss)	4.7	(4.3)	(8.7)	(9.7)	(4.4)
Net income/(loss)	5.4	(4.2)	(13.2)	(9.7)	(4.5)
<b>Unit value (per square foot)</b>					
Total net sales	\$2.64	\$2.71	\$2.64	\$2.61	\$2.61
COGS:					
Raw materials	1.02	1.09	1.07	1.07	1.04
Direct labor	0.32	0.39	0.40	0.40	0.38
Other factory costs	0.76	0.85	0.90	0.88	0.83
Total COGS	2.11	2.33	2.37	2.35	2.24
Gross profit	0.53	0.38	0.27	0.26	0.37
SG&A expenses	0.41	0.49	0.50	0.51	0.49
Operating income/(loss)	0.12	(0.12)	(0.23)	(0.25)	(0.11)
Net income/(loss)	0.14	(0.11)	(0.35)	(0.25)	(0.12)
<b>Number of firms reporting</b>					
Operating losses	2	5	5	6	5
Data	6	8	9	9	10

Source: Compiled from data submitted in response to Commission questionnaires.



**Table VI-2**

**MLWF: Results of operations of U.S. producers, by firm, 2007-09, January-September 2009, and January-September 2010**

\* \* \* \* \*

All components of COGS increased on a per-square foot basis from 2007 to 2009, with raw material costs (primarily lumber), direct labor, and other factory costs increasing by \$.05, \$.08, and \$.14, respectively, from 2007 to 2009. Between the comparable interim periods, all components of COGS declined on a per-square foot basis, with raw material costs, direct labor, and other factory costs declining by \$.03, \$.02, and \$.05, respectively. Thus, the overall change in per-square foot COGS during the period examined is primarily the result of increased or decreased conversion costs (direct labor and other factory costs).<sup>3</sup> In addition, the domestic MLWF industry's SG&A expenses represented 17 percent of overall operating costs and expenses during the period examined, and are also a factor in the industry's reported financial performance.<sup>4 5</sup>

While the domestic MLWF industry experienced a decline in overall profitability from 2007 to 2009, and a decrease in the overall operating loss between the comparable interim periods, \*\*\*.<sup>6</sup> According to petitioners, \*\*\*.<sup>6</sup>

### VARIANCE ANALYSIS

The variance analysis presented in table VI-3 is based on the data in table VI-1. The analysis shows that the decline in operating income from 2007 to 2009 is primarily attributable to an unfavorable net cost/expense variance (that is, costs and expenses increased). Between the comparable interim periods, the reduction in the operating loss is primarily attributable to a favorable net cost/expense variance (that is, costs/expenses declined).<sup>7</sup>

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<sup>3</sup> Petitioners stated that \*\*\*. Petitioners' postconference brief, p. 25.

<sup>4</sup> At the conference, petitioners stated that, "{t}he successful marketing of the multilayered wood flooring brand takes a great amount of time, energy, creativity, and, of course, money...Our marketing...involves brochures, websites, trade shows and displays, among many other elements..." Conference transcript (Finkell), pp. 33-34.

<sup>5</sup> While per-square foot COGS and SG&A expenses increased from 2007 to 2009, the absolute value of these operating costs declined by 10 and 2 percent, respectively, while sales quantities declined by 20 percent. Further, while per-square foot COGS and SG&A expenses declined between the comparable interim periods, the absolute values for these operating costs each increased by 3 percent, while sales quantities increased by 8 percent. Thus, the increase in unit operating costs from 2007 to 2009 and the decline in unit operating costs between the comparable interim periods largely resulted from fluctuations in sales volumes.

<sup>6</sup> Petitioners' postconference brief, Responses to Commission staff questions. Staff notes that \*\*\*.

<sup>7</sup> A variance analysis is calculated in three parts; sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost variance (in the case of the cost of sales and SG&A expense variance) and a volume variance. The sales or cost variance is calculated as the change in unit price times the new volume, while the volume variance is calculated as the change in volume times the old unit price. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively; and the volume variance is the sum of the lines under price and cost/expense variance. The net volume component is generally the smallest component.

**Table VI-3**  
**MLWF: Variance analysis on operations of U.S. producers, 2007-09, and January-September 2009-10**

Item	Between fiscal years			Jan.-Sept.
	2007-09	2007-08	2008-09	2009-10
<b>Value (\$1,000)</b>				
Total net sales:				
Price variance	(130)	10,195	(8,513)	699
Volume variance	(80,220)	(8,950)	(73,082)	19,312
Total net sales variance	(80,350)	1,245	(81,595)	20,011
Cost of sales:				
Cost variance	(32,676)	(33,733)	(4,938)	10,426
Volume variance	64,021	7,143	62,873	(17,395)
Total cost variance	31,345	(26,590)	57,935	(6,969)
Gross profit variance	(49,005)	(25,345)	(23,660)	13,042
SG&A expenses:				
Expense variance	(11,249)	(12,682)	(821)	2,486
Volume variance	12,466	1,391	13,329	(3,789)
Total SG&A variance	1,217	(11,291)	12,508	(1,303)
Operating income variance	(47,788)	(36,636)	(11,152)	11,739
Summarized as:				
Price variance	(130)	10,195	(8,513)	699
Net cost/expense variance	(43,925)	(46,414)	(5,759)	12,912
Net volume variance	(3,734)	(417)	3,120	(1,872)
Note.-- Unfavorable variances are shown in parentheses; all others are favorable.				
Source: Compiled from data submitted in response to Commission questionnaires.				

### **CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES**

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table VI-4. Ten firms provided capital expenditure data, and five firms provided data on R&D expenses. Capital expenditures declined irregularly from 2007 to 2009, and also declined between the comparable interim periods. Anderson and Armstrong reported \*\*\*. Anderson's capital expenditures include \*\*\*.<sup>8</sup> Armstrong's capital expenditures include \*\*\*.<sup>9</sup> Armstrong also reported \*\*\*, and stated that such expenditures reflect \*\*\*.<sup>10</sup>

<sup>8</sup> Petitioners' postconference brief, exhibits Q-1 and Q-2.

<sup>9</sup> E-mail correspondence from \*\*\*, November 22, 2010.

<sup>10</sup> Ibid.

**Table VI-4**

**MLWF: Capital expenditures and research and development expenses of U.S. producers, 2007-09, January-September 2009, and January-September 2010**

Item	Fiscal year			January-September	
	2007	2008	2009	2009	2010
<b>Value (\$1,000)</b>					
<b>Capital expenditures:</b>					
Total	18,252	20,079	13,460	10,601	7,458
<b>R&amp;D expenses:</b>					
Total	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

### ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of MLWF to compute return on investment ("ROI"). Data on the U.S. producers' total assets and their ROI are presented in table VI-5. From 2007 to 2009, the total assets for MLWF decreased from \$466.1 million in 2007 to \$371.9 million in 2009, and the ROI declined from 4.1 percent in 2007 to negative 7.7 percent in 2009.

**Table VI-5**

**MLWF: Asset values and return on investment of U.S. producers, 2007-09**

Item	Fiscal year		
	2007	2008	2009
<b>Value of assets:</b>			
<b>Value (\$1,000)</b>			
<b>Current assets:</b>			
Cash and equivalents	913	1,677	2,833
Accounts receivable, net	47,153	41,675	30,101
Inventories	155,430	153,863	103,008
Other	5,370	3,322	4,156
Total current assets	208,866	200,537	140,098
<b>Non-current assets:</b>			
Property, plant and equipment - book value	***	***	***
Other non-current assets <sup>1</sup>	***	***	***
Total assets	466,142	463,578	371,852
Operating income or (loss)	19,080	(17,556)	(28,708)
Return on investment	4.1	(3.8)	(7.7)
<sup>1</sup> ***. E-mail correspondence from ***, November 9, 2010.			
Source: Compiled from data submitted in response to Commission questionnaires.			

## CAPITAL AND INVESTMENT

The Commission requested U.S. producers of MLWF to describe any actual or potential negative effects of imports of MLWF from China on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Responses provided by U.S. producers follow.

### Actual Negative Effects

\* \* \* \* \*

### Anticipated Negative Effects

\* \* \* \* \*

## **PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES**

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the alleged subsidies was presented earlier in this report (if relevant); information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries and the global market.

### **THE INDUSTRY IN CHINA**

The Commission received responses from 31 firms accounting for a majority of 2009 production of MLWF in China and the vast majority of exports to the United States from China.<sup>1</sup> The respondent firms accounted for 46.6 percent of total shipments exported to the United States. According to respondent China National Forest Products, approximately 70 percent of all Chinese production of MLWF is sold in the domestic market, while approximately 30 percent is exported. The firm estimates that 10-15 percent is exported to the United States, and that the percentage is declining as the domestic market continues to grow.<sup>2</sup> Five Chinese producers, (\*\*\*) , reported plant openings. Two of the five foreign producers, (\*\*\*) , specified that the new plants were to supply raw materials to MLWF operations. Several producers also reported expansions and upgrades in machinery and equipment. Many Chinese producers reported revised labor agreements to comply with China's new labor law, effective in 2008.<sup>3</sup> Foreign producers reported increased cost and inadequate supply of raw materials and labor as constraints on production. A number of producers also mentioned energy shortages, such as electricity and coal, as a constraint on production.

Capacity, production, and export shipment data regarding the individual firms are presented in table VII-1. Seven firms, (\*\*\*) , accounted for nearly half of reported Chinese MLWF production in 2009. Capacity utilization ranged between 9 and 97 percent and the share of shipments that were exported to the United States ranged between 1 and 100 percent.

**Table VII-1**  
**MLWF: China's reported production capacity, production, shipments, and inventories, by firm, 2009**

\* \* \* \* \*

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<sup>1</sup> Responses to the Commission's foreign producer questionnaire. The Commission sent over 200 foreign producer questionnaires receiving 31 completed.

<sup>2</sup> Chinese Producers' Association, postconference brief, response to staff questions, p. 2.

<sup>3</sup> China's new labor law increases worker protections and benefits for more workers. The law makes employer and employee enter into a written contract of one of three types: a fixed-term contract, an open-term contract ("tenure") or a contract whose term is linked to the completion of a specific task. Social insurance must be paid by the employer. Previously, most private companies did not pay social insurance for their employees. "China's Tangled New Labor Law." *Forbes*. January 13, 2008.

[http://www.forbes.com/2008/01/11/straszheim-china-labor-oped-cx\\_dhs\\_0114straszheim.html](http://www.forbes.com/2008/01/11/straszheim-china-labor-oped-cx_dhs_0114straszheim.html). (Accessed November 18, 2010).

Table VII-2 presents data on whether Chinese producers since 2007 produced other products on the same equipment and machinery used in the production of MLWF and/or using the same production and related workers employed to produce MLWF. Eleven Chinese producers reported production of other products using the same workers and/or on the same machinery. These products were solid hardwood, HDF laminate, and bamboo flooring.

**Table VII-2**  
**MLWF: Chinese producers' reported use of machinery, equipment, and workers used for MLWF and other nonsubject products, 2007-09, January-September 2009, and January-September 2010**

Item	Calendar year			January-September	
	2007	2008	2009	2009	2010
<i>Quantity in 1,000 square feet</i>					
<b>Overall production capacity</b>	134,032	181,039	177,711	131,119	154,531
<b>Production of:</b>					
Subject merchandise	64,978	75,127	73,174	53,474	76,987
Other <sup>1</sup>	36,253	63,416	60,019	43,532	57,929
Total	101,231	138,543	133,193	97,006	134,917
<b>Overall capacity utilization (%)</b>	75.5	76.5	74.9	74.0	87.3
<sup>1</sup> Other products include solid hardwood, HDF laminate, and bamboo flooring. Source: Compiled from data submitted in response to Commission questionnaires.					

Table VII-3 presents cumulative data for reported capacity, production, and shipments of MLWF for all reporting producers in China. Chinese producers reported having 40 percent more capacity to produce MLWF and two-thirds more production of MLWF than their U. S. counterparts during 2009. Exports to the United States have remained less than half of total shipments during the period of investigation and home market sales were less than 15 percent although they are projected to rise to more than 18 percent in 2011.

Table VII-3

MLWF: China production capacity, production, shipments, and inventories, 2007-09, January-September 2009, January-September 2010, and projected 2010-11

Item	Actual experience					Projections	
	2007	2008	2009	January-September		2010	2011
				2009	2010		
<b>Quantity (square feet)</b>							
Capacity	344,432	378,531	378,537	293,475	301,953	386,556	387,902
Production	234,994	244,812	214,053	148,634	219,637	269,087	272,359
End of period inventories	20,730	23,026	25,039	24,099	29,645	23,528	23,205
Shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	111,157	106,684	98,651	72,820	107,820	129,221	114,615
All other markets	93,308	100,297	82,744	55,180	78,325	99,601	108,665
Total exports	204,465	206,981	181,395	128,000	186,146	228,822	223,280
Total shipments	230,819	241,134	211,875	147,570	215,045	269,517	273,596
<b>Ratios and shares (percent)</b>							
Capacity utilization	68.2	64.7	56.5	50.6	72.7	69.6	70.2
Inventories to production	8.8	9.4	11.7	12.2	10.1	8.7	8.5
Inventories to total shipments	9.0	9.5	11.8	12.2	10.3	8.7	8.5
Share of total quantity of shipments:							
Internal consumption	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	48.2	44.2	46.6	49.3	50.1	47.9	41.9
All other markets	40.4	41.6	39.1	37.4	36.4	37.0	39.7
All export markets	88.6	85.8	85.6	86.7	86.6	84.9	81.6
Note.—Because of rounding, figures may not add to the totals shown.							
Source: Compiled from data submitted in response to Commission questionnaires.							

## U.S. INVENTORIES OF PRODUCT FROM CHINA

Reported inventories held by U.S. importers of subject merchandise from China and nonsubject countries are shown in table VII-4.

**Table VII-4**

**MLWF: U.S. importers' end-of-period inventories of subject and nonsubject imports, by sources, 2007-2009, January-September 2009, and January-September 2010**

Source	Calendar year			January-September	
	2007	2008	2009	2009	2010
Imports from China:					
Inventories ( <i>square feet</i> )	28,523	35,034	31,374	31,520	36,191
Ratio to imports ( <i>percent</i> )	28.5	26.2	27.6	26.9	24.0
Ratio to U.S. shipments of imports ( <i>percent</i> )	30.9	26.4	26.5	25.9	25.1
Imports from nonsubject countries:					
Inventories ( <i>square feet</i> )	16,221	13,785	9,558	10,101	6,368
Ratio to imports ( <i>percent</i> )	35.8	41.7	40.2	40.6	29.2
Ratio to U.S. shipments of imports ( <i>percent</i> )	35.7	38.9	34.6	34.4	25.2
Imports from all sources:					
Inventories ( <i>square feet</i> )	44,744	48,819	40,932	41,621	42,559
Ratio to imports ( <i>percent</i> )	30.7	29.3	29.8	29.3	24.7
Ratio to U.S. shipments of imports ( <i>percent</i> )	32.5	29.0	28.0	27.6	25.1
Note.—January-September ratios are calculated using annualized import data.					
Source: Compiled from data submitted in response to Commission questionnaires.					

### U.S. IMPORTERS' IMPORTS SUBSEQUENT TO SEPTEMBER 30, 2010

The Commission requested importers to indicate whether they imported or arranged for the importation of MLWF from China after September 30, 2010. Thirty-seven of the 50 reporting U.S. importers stated that they had imported or arranged for importation subject merchandise since September 30, 2010, totaling 18.9 million square feet.



## ANTIDUMPING INVESTIGATIONS IN THIRD-COUNTRY MARKETS

No investigations of MLWF have or are being conducted in third-country markets. However, Australia initiated in 2009, and later terminated in 2010, antidumping investigations on certain plywood from China as well as Brazil, Chile, and Malaysia.<sup>4</sup>

### INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury “by reason of subject imports,” the legislative history states “that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) ‘to ensure that it is not attributing injury from other sources to the subject imports.’”<sup>5</sup>

#### Global Market

MLWF is produced in a number of countries including Brazil, Canada, China, EU, Indonesia, Malaysia, and United States. Trade statistics do not allow an accurate assessment of trade flows of MLWF because the subject product is included in categories that also include nonsubject hardwood plywood and nonsubject builders’ joinery products. However, Chinese exports of plywood (HS 4412) and builders’ joinery products (HS 4418), in categories that include subject imports, represented approximately 16 percent of total global exports in 2009 (table VII-5).

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<sup>4</sup> Foreign producer questionnaire response of \*\*\*; and Australian Customs Dumping Notice No. 2010/29. Australian Customs and Border Protection Service. August 4, 2010. <http://www.customs.gov.au/webdata/resources/files/MicrosoftWord-100802ACDN.pdf>. (Accessed November 18, 2010).

<sup>5</sup> Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

**Table VII-5**  
**MLWF: Exports by country, 2007-09**

Source	Calendar year		
	2007	2008	2009
<i>Value (1,000 dollars)</i>			
China	1,362,266	1,378,868	1,156,802
Indonesia	( <sup>1</sup> )	( <sup>1</sup> )	1,137,442
Malaysia	8,203	749,698	937,230
Russia	716,067	726,019	474,775
Austria	550,416	574,465	468,838
Germany	488,567	532,374	399,314
Finland	742,373	714,610	355,398
Poland	288,104	282,806	197,691
Belgium	196,877	254,883	188,053
Sweden	322,371	264,851	181,117
France	298,077	276,885	179,533
Canada	285,122	249,210	174,636
Italy	212,349	223,502	164,565
United States	160,670	191,976	142,605
Latvia	198,597	215,585	136,012
Brazil	267,156	212,423	103,046
Spain	102,906	110,541	75,543
Netherlands	76,619	77,313	72,173
Czech Republic	67,759	75,345	64,834
Slovenia	82,946	85,553	62,526
Rest of World	801,967	873,196	686,536
Total World Exports	7,229,413	8,070,103	7,358,668
<sup>1</sup> Not available.			
Source: GTIS Global Trade Atlas (4412.31, 4412.32, 4412.94, 4412.99, 4418.71 ,4418.72).			

**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by December 6, 2010. The Commission's views are due at Commerce within five business days thereafter, or by December 13, 2010.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**DATES:** *Effective Date:* October 21, 2010.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202-205-3187 or [fred.ruggles@usitc.gov](mailto:fred.ruggles@usitc.gov)), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted in response to a petition filed on October 21, 2010, on behalf of the Coalition for American Hardwood Parity ("CAHP"), an ad hoc association of U.S. manufacturers of multilayered wood flooring. The following companies are members of the CAHP: Anderson Hardwood Floors, LLC, Fountain Inn, SC; Award Hardwood Floors, Wausau, WI; Baker's Creek Wood Floors, Inc., Edwards, MS; From the Forest, Weston, WI; Howell Hardwood Flooring, Dothan, AL; Mannington Mills, Inc., Salem, NJ; Nydree Flooring, Forest, VA; and Shaw Industries Group, Inc., Dalton, GA.

*Participation in the investigations and public service list.*—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in

Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 12, 2010, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202-205-3187) not later than November 9, 2010, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 16, 2010, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic

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## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-476 and 731-TA-1179 (Preliminary)]

### Multilayered Wood Flooring From China

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701-TA-476 and 731-TA-1179 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of multilayered wood flooring, provided for in subheadings 4409.10, 4409.29, 4412.31, 4412.32, 4412.39, 4412.94, 4412.99, 4418.71, 4418.72, 4418.79.00, and 4418.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must

means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: October 21, 2010.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 2010-27173 Filed 10-26-10; 8:45 am]

**BILLING CODE 7020-02-P**

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Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** On October 21, 2010, the Department of Commerce (“Department”) received a petition concerning imports of multilayered wood flooring from the People’s Republic of China (“PRC”) filed in proper form by the Coalition for American Hardwood Parity<sup>1</sup> (“Petitioner”). See Petitions for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China dated October 21, 2010 (“Petition”). On October 27, 2010, the Department issued requests for information and clarification of certain areas of the Petition. Petitioner timely filed additional information on October 29, 2010,<sup>2</sup> November 2, 2010,<sup>3</sup> November 3, 2010,<sup>4</sup> November 8, 2010<sup>5</sup> and November 9, 2010.<sup>6</sup>

On November 4, 2010, we received comments from Lumber Liquidators Services, LLC (“Lumber Liquidators”) and Home Legend, LLC (“Home Legend”), U.S. importers of multilayered wood flooring. Lumber Liquidators and Home Legend are interested parties as defined by section 771(9)(A) of the Tariff Act of 1930, as amended (“the Act”). Additionally, on November 9, 2010, we received further comments filed by Lumber Liquidators, Home Legend and U.S. Floors LLC.

#### **Period of Investigation**

The period of investigation (“POI”) is April 1, 2010, through September 30, 2010. See 19 CFR 351.204(b)(1).

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## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[A–570–970]**

#### **Multilayered Wood Flooring From the People’s Republic of China: Initiation of Antidumping Duty Investigation**

**DATES:** *Effective Date:* November 18, 2010.

#### **FOR FURTHER INFORMATION CONTACT:**

Brandon Petelin, John Hollwitz or Charles Riggle, AD/CVD Operations, Office 8, (202) 482–8173, (202) 482–2336 or (202) 482–0650, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

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<sup>1</sup> Commerce Secretary Locke Launches Internet Policy Task Force, Department of Commerce Press Release (April 21, 2010), at <http://www.commerce.gov/news/press-releases/2010/04/21/commerce-secretary-locke-announces-public-review-privacy-policy-and-i>.

<sup>2</sup> See 75 FR 60068 (September 29, 2010).

<sup>1</sup> The Coalition for American Hardwood Parity is comprised of Anderson Hardwood Floors, LLC, Award Hardwood Floors, Baker’s Creek Wood Floors, Inc., From the Forest, Howell Hardwood Flooring, Mannington Mills, Inc., Nydree Flooring and Shaw Industries Group, Inc.

<sup>2</sup> See Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China, dated October 29, 2010 (“Supplement to the AD Petition”).

<sup>3</sup> See Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China, dated November 2, 2010 (“Supplement to the AD/CVD Petitions”).

<sup>4</sup> See Supplement to the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China, dated November 3, 2010 (“Second Supplement to the AD/CVD Petitions”).

<sup>5</sup> See Letter regarding the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China, dated November 8, 2010.

<sup>6</sup> See Letter regarding the Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People’s Republic of China, dated November 9, 2010.

In accordance with section 732(b) of the Act, Petitioner alleged that imports of multilayered wood flooring from the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because Petitioner is an interested party, as defined in sections 771(9)(C), (E) and (F) of the Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioner is requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" section below).

### Scope of the Investigation

The products covered by this investigation are multilayered wood flooring from the PRC. For a full description of the scope of the investigation, *see* "Scope of Investigation," in Appendix I of this notice.

### Comments on Scope of the Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the "Scope of Investigation" language has been modified from the language in the Petition to reflect these clarifications. Moreover, as discussed in the preamble to the regulations (*see Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by Tuesday, November 30, 2010, which is twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

### Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the

appropriate physical characteristics of multilayered wood flooring to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe multilayered wood flooring, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by November 30, 2010. Additionally, rebuttal comments must be received by December 7, 2010.

### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic

producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The ITC, which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that multilayered wood flooring constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Multilayered Wood Flooring from the



People's Republic of China ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Multilayered Wood Flooring from the People's Republic of China, on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioner provided its production volume of the domestic like product in 2009, and compared this to the estimated total production volume of the domestic like product for the entire domestic industry. See Volume I of the Petitions, at 4–5, and Exhibit I–3; see also Supplement to the AD/CVD Petitions dated November 2, 2010, at 2; Second Supplement to the AD/CVD Petitions dated November 3, 2010, at 1–2 and Exhibit I–K. Petitioner estimated 2009 production volume of the domestic like product by non-petitioning companies based on its knowledge of the industry. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, see Initiation Checklist at Attachment II.

On November 4, 2010, we received a submission on behalf of importers of multilayered wood flooring, interested parties to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry support calculation. See Initiation Checklist at Attachment II. On November 8 and 9, 2010, Petitioner filed replies to the importers' industry support challenge. The importers filed an additional submission on November 9, 2010. For further discussion of these submissions see Initiation Checklist at Attachment II.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that the domestic producers and workers have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Because the Petition and supplemental submissions did not establish support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department was required to take further action in order to evaluate

industry support. See section 732(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 732(c)(4)(D)(i) of the Act, to determine industry support. See Initiation Checklist at Attachment II; see also Memorandum to the File from Victoria Flynn, dated November 3, 2010. Based on information provided in the Petition, other submissions, and additional information obtained by the Department, the domestic producers and workers have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Initiation Checklist at Attachment II.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C), (E) and (F) of the Act and they have demonstrated sufficient industry support with respect to the antidumping duty investigations that they are requesting the Department initiate. *Id.*

#### **Allegations and Evidence of Material Injury and Causation**

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced production, reduced shipments, reduced capacity and capacity utilization, underselling and price depression or suppression, reduced employment, hours worked, and wages paid, decline in financial performance, lost sales and revenue, and increase in import penetration. See Vol. I of the Petition, at 16–60. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory

requirements for initiation. See Checklist at Attachment III, Injury.

#### **Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of multilayered wood flooring from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the initiation checklist. See Initiation Checklist.

#### **U.S. Price**

Petitioner calculated export price ("EP") based on documentation of offers for sales obtained from a proprietary source. See Initiation Checklist; see also Volume II of the Petition, at 1–2 and Exhibit II–1.

#### **Normal Value**

Petitioner claims the PRC is a non-market economy ("NME") country and that no determination to the contrary has been made by the Department. See Volume II of the Petition, at 3. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, in accordance with section 771(18)(C)(i) of the Act, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner contends that Indonesia is the appropriate surrogate country for the PRC because: (1) It is at a level of economic development comparable to that of the PRC and (2) it is a significant producer of comparable merchandise. See Volume II of the Petition, at 3–6, and Exhibits II–2, II–3, and II–4. Based on the information provided by Petitioner, we believe that it is appropriate to use Indonesia as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date

of publication of the preliminary determination.

Petitioner calculated NV and the dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. In calculating NV, Petitioner based the quantity of each of the inputs used to manufacture multilayered wood flooring in the PRC on product-specific consumption rates of a multilayered wood flooring producer in the United States ("Surrogate Domestic Producer") for identical or similar merchandise during the POI. See Volume II of the Petition, at 6–8 and Exhibits II–5 and II–6. Petitioner states that the actual usage rates of the foreign manufacturers of multilayered wood flooring are not reasonably available; however, Petitioner notes that according to the information available, the production of multilayered wood flooring in the PRC relies on similar production methods to the Surrogate Domestic Producer. See Volume II of the Petition, at 6–7 and Exhibit II–5.

As noted above, Petitioner determined the consumption quantities of all raw materials based on the production experience of the Surrogate Domestic Producer. Petitioner valued most of the factors of production based on reasonably available, public surrogate country data, specifically, Indonesian import statistics from the Global Trade Atlas ("GTA"). See Volume II of the Petition, at 8–12 and Exhibits II–6 and II–7; see also Supplement to the AD Petition, at Supplemental Exhibit II–B. Petitioner excluded from these import statistics imports from countries previously determined by the Department to be NME countries. Petitioner also excluded import statistics from India, the Republic of Korea and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. See Volume II of the Petition, at Exhibit II–7. In addition, Petitioner made currency conversions, where necessary, based on the POI-average rupiah/U.S. dollar exchange rate, as reported on the Department's Web site. See Volume II of the Petition, at 8 and Exhibit II–6. Petitioner determined labor costs using the labor consumption, in hours, derived from the Surrogate Domestic Producer's experience. See Volume II of the Petition, at 8 and Exhibit II–5. For purposes of initiation, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation.

Petitioner determined energy and utility costs using the usage rates derived from the Surrogate Domestic Producer's experience. See Volume II of the Petition, at 10 and Exhibit II–6. However, when constructing the NV of the subject merchandise, Petitioner did not individually incorporate the diesel fuel, electricity, and water inputs into the normal value calculation, because Petitioner could not segregate energy costs from the surrogate financial statements, and so accounted for the diesel fuel, electricity, and water costs in the calculation of surrogate financial ratios. *Id.* This is consistent with the Department's recent decision in *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2. See Volume II of the Petition, at 11 and Exhibit II–6; see also Supplement to the AD Petition, at Supplemental Exhibit II–B.

Petitioner determined labor costs using data from Chapter 5B of the International Labour Organization's database to calculate a simple average of industry-specific wage rates from a basket of countries that are economically comparable to the PRC and are significant exporters of the like merchandise. See Supplement to the AD Petition at 3, and Supplemental Exhibit II–C; see also Letter regarding the Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Multilayered Wood Flooring From the People's Republic of China: Supplemental Questions, dated October 27, 2010.

Petitioner determined packing costs using consumption rates derived from the Surrogate Domestic Producer's experience, valued using data from the GTA. See Volume II of the Petition, at 12 and Exhibits II–6 and II–7.

Petitioner based factory overhead, selling, general and administrative expenses, and profit on data from PT Tirta Mahakam Resources, Tbk., an Indonesian manufacturer of multilayered wood flooring, for the 2009 fiscal year. See Volume II of the Petition, at 11–12 and Exhibit II–12.

#### Fair-Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of multilayered wood flooring from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. prices and NV calculated in accordance with section 773(c) of the Act, as described above, the estimated

dumping margins for multilayered wood flooring from the PRC range from 194.49 percent to 280.60 percent. See Initiation Checklist and Supplement to the AD Petition at Exhibit II–B.

#### Initiation of Antidumping Investigation

Based upon the examination of the Petition on multilayered wood flooring from the PRC, the Department finds the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of multilayered wood flooring from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5). See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008). The Department stated that "withdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *Id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in this investigation pursuant to section 777A(d)(1)(B) of the Act, such allegation is due no later than 45 days before the scheduled date of the preliminary determination.

#### Respondent Selection

For this investigation, the Department will request quantity and value information from known exporters and producers identified with complete contact information in the Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the

respective deadlines in order to receive consideration for separate-rate status. See *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005). On the date of the publication of this initiation notice in the **Federal Register**, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html>, and a response to the quantity and value questionnaire is due no later than December 3, 2010. Also, the Department will send the quantity and value questionnaire to those PRC companies identified in Volume I of the Petition, at Exhibit I-6.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

#### Separate Rates Application

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries, dated April 5, 2005 ("Policy Bulletin"), available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, e.g., *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 72 FR 43591, 43594-95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and

subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status.

#### Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Policy Bulletin states:

{W}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Policy Bulletin at 6 (emphasis added).

#### Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Government of the PRC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

#### ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than December 6, 2010, whether there is a reasonable indication that imports of multilayered wood flooring from the PRC are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: November 10, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

#### Appendix I—Scope of the Investigation

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)<sup>7</sup> in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, e.g., "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

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

<sup>7</sup> A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.

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

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

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

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS):  
4412.31.0520; 4412.31.0540; 4412.31.0560;  
4412.31.2510; 4412.31.2520; 4412.31.4040;  
4412.31.4050; 4412.31.4060; 4412.31.4070;  
4412.31.5125; 4412.31.5135; 4412.31.5155;  
4412.31.5165; 4412.31.3175; 4412.31.6000;  
4412.31.9100; 4412.32.0520; 4412.32.0540;  
4412.32.0560; 4412.32.2510; 4412.32.2520;  
4412.32.3125; 4412.32.3135; 4412.32.3155;  
4412.32.3165; 4412.32.3175; 4412.32.3185;  
4412.32.5600; 4412.39.1000; 4412.39.3000;  
4412.39.4011; 4412.39.4012; 4412.39.4019;  
4412.39.4031; 4412.39.4032; 4412.39.4039;  
4412.39.4051; 4412.39.4052; 4412.39.4059;  
4412.39.4061; 4412.39.4062; 4412.39.4069;  
4412.39.5010; 4412.39.5030; 4412.39.5050;  
4412.94.1030; 4412.94.1050; 4412.94.3105;  
4412.94.3111; 4412.94.3121; 4412.94.3131;  
4412.94.3141; 4412.94.3160; 4412.94.3171;  
4412.94.4100; 4412.94.5100; 4412.94.6000;  
4412.94.7000; 4412.94.8000; 4412.94.9000;  
4412.94.9500; 4412.99.0600; 4412.99.1020;  
4412.99.1030; 4412.99.1040; 4412.99.3110;  
4412.99.3120; 4412.99.3130; 4412.99.3140;  
4412.99.3150; 4412.99.3160; 4412.99.3170;  
4412.99.4100; 4412.99.5100; 4412.99.5710;  
4412.99.6000; 4412.99.7000; 4412.99.8000;  
4412.99.9000; 4412.99.9500; 4418.71.2000;  
4418.71.9000; 4418.72.2000; and  
4418.72.9500.

In addition, imports of subject merchandise may enter the U.S. under the following HTSUS subheadings:  
4409.10.0500; 4409.10.2000; 4409.29.0515;  
4409.29.0525; 4409.29.0535; 4409.29.0545;  
4409.29.0555; 4409.29.0565; 4409.29.2530;  
4409.29.2550; 4409.29.2560; 4418.71.1000;  
4418.79.0000; and 4418.90.4605.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2010-29119 Filed 11-17-10; 8:45 am]

**DEPARTMENT OF COMMERCE****International Trade Administration**

[C-570-971]

**Multilayered Wood Flooring From the People's Republic of China: Initiation of Countervailing Duty Investigation**

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

**DATES:** *Effective Date:* November 18, 2010.

**FOR FURTHER INFORMATION CONTACT:** Yasmin Nair and Joshua Morris, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3813 and (202) 482-1779, respectively.

**SUPPLEMENTARY INFORMATION:****The Petition**

On October 21, 2010, the Department of Commerce ("Department") received a petition filed in proper form by the Coalition for American Hardwood Parity ("Petitioner"), whose members (Anderson Hardwood Floors, LLC; Award Hardwood Floors; Baker's Creek Wood Floors, Inc.; From the Forest; Howell Hardwood Flooring; Mannington Mills, Inc.; Nydree Flooring; Shaw Industries Group, Inc.) are domestic producers of multilayered wood flooring.<sup>1</sup> In response to the Department's requests, Petitioner provided timely information supplementing the Petition on October 29, 2010, November 2, 2010, and November 3, 2010. Petitioner also provided information supplementing the Petition on November 9, 2010.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("the Act"), Petitioner alleges that manufacturers, producers, or importers of multilayered wood flooring from the People's Republic of China ("PRC") received countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing multilayered wood flooring in the United States.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C), (E), and (F) of the Act, and

Petitioner has demonstrated sufficient industry support with respect to the countervailing duty ("CVD") investigation (see "Determination of Industry Support for the Petition" section below).

On November 4, 2010, we received comments from Lumber Liquidators Services, LLC ("Lumber Liquidators") and Home Legend, LLC ("Home Legend"), U.S. importers of multilayered wood flooring (collectively, "importers"). Lumber Liquidators and Home Legend are interested parties as defined by section 771(9)(A) of the Act. The importers and U.S. Floors LLC ("US Floors") filed additional comments on November 9, 2010.

**Period of Investigation**

The period of investigation is January 1, 2009, through December 31, 2009.

**Scope of Investigation**

The products covered by the investigation are multilayered wood flooring products from the PRC. For a full description of the scope of the investigation, please see "Scope of the Investigation," in Appendix I of this notice.

**Comments on Scope of Investigation**

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As a result, the "Scope of Investigation" language has been modified from the language in the Petition to reflect these clarifications. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by November 30, 2010, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of the scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

**Consultations**

Pursuant to section 702(b)(4)(A)(ii) of the Act, on October 22, 2010, the Department invited representatives of

<sup>1</sup> See Petition for the Imposition of Antidumping and Countervailing Duties: Multilayered Wood Flooring from the People's Republic of China, dated October 21, 2010 ("Petition").

the Government of the PRC (“GOC”) for consultations with respect to the CVD petition. On October 27, 2010, the GOC’s Ministry of Commerce, under the Bureau of Fair Trade for Imports & Exports, requested consultations. These consultations were held by telephone on November 1, 2010. *See* Memorandum from Joshua Morris to the File, entitled, “Consultations with Officials from the Government of the People’s Republic of China on the Countervailing Duty Petition regarding Multilayered Wood Flooring,” (November 8, 2010), which is on file in the Central Records Unit (“CRU”) of the main Department of Commerce building, Room 7046. On November 9, 2010, Deputy Assistant Secretary for Import Administration Ronald Lorentzen met with representatives from the GOC to discuss the Petition. *See* Memorandum from Joshua Morris to the File, entitled, “Meeting with Officials from the Embassy of the People’s Republic of China on the Countervailing Duty Petition regarding Multilayered Wood Flooring,” (November 10, 2010) which is on file in the CRU.

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (“ITC”), which is responsible for determining whether

“the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that multilayered wood flooring constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* “Countervailing Duty Investigation Initiation Checklist: Multilayered Wood Flooring from the People’s Republic of China” (“Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Petitions Covering Multilayered Wood Flooring from the People’s Republic of China, on file in the CRU.

In determining whether Petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of Investigation” section above. To establish industry support, Petitioner provided its production volume of the domestic like product in 2009, and compared this to the estimated total production volume of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions,

at 4–5, and Exhibit I–3; *see also* Supplement to the AD/CVD Petitions dated November 2, 2010 at 2; *see also* Supplement to the AD/CVD Petitions dated November 3, 2010 at 1–2 and Exhibit I–K. Petitioner estimated 2009 production volume of the domestic like product by non-petitioning companies based on its knowledge of the industry. We have relied upon data Petitioner provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

On November 4, 2010, we received a submission on behalf of importers of multilayered wood flooring, interested parties to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry support calculation. *See* Initiation Checklist at Attachment II. On November 8 and 9, 2010, Petitioner filed replies to the importers’ industry support challenge. The importers filed an additional submission on November 9, 2010, on behalf of the importers and US Floors, in which they voice US Floors’ opposition to the Petitions. For further discussion of these submissions, *see* Initiation Checklist at Attachment II.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. Because the Petition and supplemental submissions did not establish support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department was required to take further action in order to evaluate industry support. *See* section 702(c)(4)(D) of the Act. In this case, the Department was able to rely on other information, in accordance with section 702(c)(4)(D)(i) of the Act, to determine industry support. *See* Initiation Checklist at Attachment II. Based on information provided in the Petition, other submissions, and additional information obtained by the Department, the domestic producers and workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to,

the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C), (E), and (F) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate. *Id.*

### Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of multilayered wood flooring from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industry producing multilayered wood flooring. In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry’s injured condition is illustrated by reduced market share, reduced production, reduced shipments, reduced capacity and capacity utilization, underselling and price depression or suppression, reduced employment, hours worked, and wages paid, decline in financial performance, lost sales and revenue, and increase in import penetration. *See* Volume I of the Petition, at 16–60. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Initiation Checklist at Attachment III, Injury.

### Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an

imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to Petitioner(s) supporting the allegations. The Department has examined the CVD petition on multilayered wood flooring from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of multilayered wood flooring in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Initiation Checklist.

We are including in our investigation the following programs alleged in the Petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

#### A. Tax Benefit Programs

1. Income Tax Exemption/Reduction under “Two-Free/Three Half” Program.
2. Local Income Tax Exemption and Reductions for “Productive” Foreign-Invested Enterprises (“FIEs”).
3. Tax Subsidies to FIEs Based on Geographic Location.

#### B. Indirect Tax and Import Tariff Programs

4. Value Added Tax and Tariff Exemptions on Imported Equipment.

#### C. Provision of Goods or Services for Less Than Adequate Remuneration (“LTAR”)

5. Electricity for LTAR.
  6. Provision of Electricity at LTAR for FIEs and “Technologically Advanced” Enterprises by Jiangsu Province.
- For further information explaining why the Department is investigating these programs, *see* Initiation Checklist.

We are not including in our investigation the following program alleged to benefit producers and exporters of the subject merchandise in the PRC:

#### 1. Currency Undervaluation

Petitioner alleges that the GOC ensures that the Renminbi (“RMB”) exchange rate significantly understates the value of the RMB against the U.S. Dollar (“USD”) from 25 to 50 percent. Petitioner alleges that Chinese exporters earning USD through export transactions receive an artificially inflated amount of RMB when they exchange the USD at the People’s Bank of China, a Chinese government entity. Petitioner states that the GOC thus

ensures exporters who receive USD from export activities receive more RMB than they otherwise would if the value of the RMB was set through market mechanisms. Petitioner alleges that the GOC’s program to maintain artificial exchange rates qualifies as a financial contribution or, in the alternative, Petitioner alleges that GOC foreign exchange market interventions constitute a price support within the meaning of Article XVI of the GATT 1994. In both cases, Petitioner describes the benefit conferred as the excess of RMB received over what would have been received at a market rate (“excess RMB”), and alleges specificity within the meaning of section 771(5A)(B) of the Act. Petitioner notes that the U.S. House of Representatives has recently passed legislation in regard to subsidies relating to a fundamentally undervalued currency. According to Petitioner, this legislation states that a subsidy may be considered export contingent, even if the subsidy is also provided in non-export circumstances.

Section 771(5A)(B) of the Act describes an export subsidy as “\* \* \* a subsidy that is, in law or fact, contingent upon export performance, alone or as 1 of 2 or more conditions.” Petitioner has failed to sufficiently allege that the receipt of the excess RMB is contingent on export or export performance because receipt of the excess RMB is independent of the type of transaction or commercial activity for which the dollars are converted or of the particular company or individuals converting the dollars. Petitioner’s reliance on legislation passed by the U.S. House of Representatives is premature as the proposed language does not yet equate to an enforceable statute. Consequently, consistent with previous cases, we do not plan on investigating this program because Petitioner has failed to properly allege the specificity element.<sup>2</sup>

#### Respondent Selection:

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the period of investigation. We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO within five days of the announcement of the

<sup>2</sup> *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 59212 (September 27, 2010); *see also Aluminum Extrusions From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 75 FR 54302 (September 7, 2010).

initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

*Distribution of Copies of the Petition:* In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the Petition has been provided to the GOC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

*ITC Notification:*

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

*Preliminary Determination by the ITC:*

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized multilayered wood flooring from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

November 10, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## APPENDIX I

### Scope of the Investigation

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s)<sup>3</sup> in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, e.g., "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended

for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade.

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

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

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

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

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185;

4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; and 4418.72.9500.

In addition, imports of subject merchandise may enter the U.S. under the following HTSUS subheadings: 4409.10.0500; 4409.10.2000; 4409.29.0515; 4409.29.0525; 4409.29.0535; 4409.29.0545; 4409.29.0555; 4409.29.0565; 4409.29.2530; 4409.29.2550; 4409.29.2560; 4418.71.1000; 4418.79.0000; and 4418.90.4605.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

[FR Doc. 2010-29117 Filed 11-17-10; 8:45 am]

**BILLING CODE 3510-DS-P**

<sup>3</sup> A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. Veneer is referred to as a ply when assembled.



**APPENDIX B**  
**CONFERENCE WITNESSES**



## CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigations:

### MULTILAYERED WOOD FLOORING FROM CHINA

**Investigation Nos. 701-TA-476 and 731-TA-1179 (Preliminary)**

**November 12, 2010 - 9:30 am**

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

#### IN SUPPORT OF THE IMPOSITION OF COUNTERVAILING AND ANTIDUMPING DUTIES:

##### **Mondial Trade Compliance**

Bethesda, MD

on behalf of

**Kim Holm**, President, Residential Business, Mannington Mills, Inc.

**Dan Natkin**, Director - Wood Business, Mannington Mills, Inc.

**Donald R. Finkell, Jr.**, Chief Executive Officer, Shaw Hardwood

**James P. Dougan**, Senior Economist, Economic Consulting Services, LLC

**Jeffrey Levin**, Esq.

)--OF COUNSEL

**IN OPPOSITION TO THE IMPOSITION OF COUNTERVAILING AND ANTIDUMPING DUTIES:**

**SANDLER, TRAVIS & ROSENBERG**

Washington, DC

on behalf of

**John Jakob**, Director of Merchandising, Lumber Liquidators Services, LLC

**Clint Hubbard**, CEO, Home Legend, LLC

**Piet Dossche**, CEO/President, US Floors LLC

**Tom Rogers**  
**Andrew Szamosszegi** )-Captial Trade, Inc.

**Mark Ludwikowski**  
**Kristen Smith** )--OF COUNSEL

**DORSEY & WHITNEY**

Washington, DC

on behalf of

**Alex Shaoulpour**, Wego Chemical & Mineral Corp.

**Mitch Tagle**, B&M Noble Co. dba Du Chateau Floors

**Jonathan Train**, Swiff-Train Co.

**Jeff Hamar**, Galleher Corp.

**Tony Pan**, Hallmark Hardwoods Inc.

**Clyde Elbrecht**, Real Woods Flooring LLC

**Jerry Burt**, Suncrest Supply

**Ken Bowen**, BR Custom Surface

**John Himes**, Wood Flooring International

**William Perry**  
**Benjamin Han** )-OF COUNSEL

**BARNES, RICHARDSON & COLBURN**

Washington, DC

on behalf of

**China National Forest Products Industry Association** and its members

**Jeffrey S. Neeley**  
**Stephen W. Brophy** )-OF COUNSEL

**APPENDIX C**  
**SUMMARY DATA**



Table C-1

Wood flooring: Summary data concerning the U.S. market, 2007-09, January-September 2009, and January-September 2010

(Quantity=1,000 square feet, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per square foot; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2007	2008	2009	January-September		2007-09	2007-08	2008-09	Jan.-Sept. 2009-10
				2009	2010				
U.S. consumption quantity:									
Amount	303,042	325,870	278,057	210,187	231,982	-8.2	7.5	-14.7	10.4
Producers' share (1)	54.5	48.3	47.4	46.1	45.2	-7.1	-6.2	-0.9	-0.9
Importers' share (1):									
China	30.5	40.8	42.6	43.4	46.7	12.2	10.3	1.9	3.2
Other sources	15.0	10.9	9.9	10.5	8.2	-5.0	-4.1	-0.9	-2.3
Total imports	45.5	51.7	52.6	53.9	54.8	7.1	6.2	0.9	0.9
U.S. consumption value:									
Amount	798,212	878,563	736,218	552,611	607,320	-7.8	10.1	-16.2	9.9
Producers' share (1)	54.8	48.2	47.0	45.6	44.7	-7.9	-6.7	-1.2	-1.0
Importers' share (1):									
China	31.6	41.4	43.4	44.3	47.3	11.8	9.8	2.0	2.9
Other sources	13.6	10.4	9.6	10.0	8.1	-3.9	-3.2	-0.7	-2.0
Total imports	45.2	51.8	53.0	54.4	55.3	7.9	6.7	1.2	1.0
U.S. shipments of imports from:									
China:									
Quantity	92,367	132,946	118,590	91,275	108,230	28.4	43.9	-10.8	18.6
Value	252,195	364,093	319,566	245,003	286,987	26.7	44.4	-12.2	17.1
Unit value	\$2.73	\$2.74	\$2.69	\$2.68	\$2.65	-1.3	0.3	-1.6	-1.2
Ending inventory quantity	28,523	35,034	31,374	31,520	36,191	10.0	22.8	-10.4	14.8
All other sources:									
Quantity	45,404	35,470	27,643	22,019	18,985	-39.1	-21.9	-22.1	-13.8
Value	108,274	91,208	70,965	55,512	49,074	-34.5	-15.8	-22.2	-11.6
Unit value	\$2.38	\$2.57	\$2.57	\$2.52	\$2.58	7.7	7.8	-0.2	2.5
Ending inventory quantity	16,221	13,785	9,558	10,101	6,368	-41.1	-15.0	-30.7	-37.0
All sources:									
Quantity	137,771	168,415	146,233	113,295	127,215	6.1	22.2	-13.2	12.3
Value	360,469	455,301	390,531	300,515	336,062	8.3	26.3	-14.2	11.8
Unit value	\$2.62	\$2.70	\$2.67	\$2.65	\$2.64	2.1	3.3	-1.2	-0.4
Ending inventory quantity	44,744	48,819	40,932	41,621	42,559	-8.5	9.1	-16.2	2.3
U.S. producers:									
Average capacity quantity	249,099	286,099	270,142	208,437	187,616	8.4	14.9	-5.6	-10.0
Production quantity	176,512	156,180	127,705	95,673	106,486	-27.7	-11.5	-18.2	11.3
Capacity utilization (1)	70.9	54.6	47.3	45.9	56.8	-23.6	-16.3	-7.3	10.9
U.S. shipments:									
Quantity	165,271	157,455	131,824	96,892	104,767	-20.2	-4.7	-16.3	8.1
Value	437,743	423,262	345,687	252,096	271,258	-21.0	-3.3	-18.3	7.6
Unit value	\$2.65	\$2.69	\$2.62	\$2.60	\$2.59	-1.0	1.5	-2.4	-0.5
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	2,357	2,463	2,077	2,021	2,052	-11.9	4.5	-15.7	1.5
Hours worked (1,000s)	5,080	4,984	4,083	2,948	3,169	-19.6	-1.9	-18.1	7.5
Wages paid (\$1,000s)	67,079	67,986	56,388	41,170	43,400	-15.9	1.4	-17.1	5.4
Hourly wages	\$13.20	\$13.64	\$13.81	\$13.96	\$13.70	4.6	3.3	1.3	-1.9
Productivity (square feet/hour)	31.2	29.8	29.5	30.3	31.4	-5.6	-4.4	-1.2	3.4
Unit labor costs	\$0.42	\$0.46	\$0.47	\$0.46	\$0.44	10.8	8.1	2.5	-5.1
Net sales:									
Quantity	155,281	151,891	124,896	91,461	98,871	-19.6	-2.2	-17.8	8.1
Value	409,961	411,206	329,611	238,367	258,378	-19.6	0.3	-19.8	8.4
Unit value	\$2.64	\$2.71	\$2.64	\$2.61	\$2.61	-0.0	2.5	-2.5	0.3
Cost of goods sold (COGS)	327,176	353,766	295,831	214,707	221,676	-9.6	8.1	-16.4	3.2
Gross profit or (loss)	82,785	57,440	33,780	23,660	36,702	-59.2	-30.6	-41.2	55.1
SG&A expenses	63,705	74,996	62,488	46,762	48,065	-1.9	17.7	-16.7	2.8
Operating income or (loss)	19,080	(17,556)	(28,708)	(23,102)	(11,363)	(2)	(2)	-63.5	50.8
Capital expenditures	18,252	20,079	13,460	10,601	7,458	-26.3	10.0	-33.0	-29.6
Unit COGS	\$2.11	\$2.33	\$2.37	\$2.35	\$2.24	12.4	10.5	1.7	-4.5
Unit SG&A expenses	\$0.41	\$0.49	\$0.50	\$0.51	\$0.49	22.0	20.4	1.3	-4.9
Unit operating income or (loss)	\$0.12	(\$0.12)	(\$0.23)	(0.25)	(\$0.11)	(2)	(2)	-98.9	54.5
COGS/sales (1)	79.8	86.0	89.8	90.1	85.8	9.9	6.2	3.7	-4.3
Operating income or (loss)/ sales (1)	4.7	-4.3	-8.7	-9.7	-4.4	-13.4	-8.9	-4.4	5.3

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires.





**APPENDIX D**  
**2010 TARIFF TREATMENT**



# Harmonized Tariff Schedule of the United States (2010) (Rev. 2)

Annotated for Statistical Reporting Purposes

IX  
44-10

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4409  4409.10 4409.10.05	  00	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed: Coniferous: Wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or faces, all the foregoing whether or not planed, sanded or end-jointed	  m <sup>3</sup>	  3.2%	  Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	  33 13%
  4409.10.20	  00	  Wood flooring	  m <sup>3</sup> m <sup>2</sup> m <sup>3</sup>	  Free	  	  33 13%

# Harmonized Tariff Schedule of the United States (2010) (Rev. 2)

Annotated for Statistical Reporting Purposes

IX  
44-11

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4409 (con.)		Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed (con.):				
4409.29		Other:				
4409.29.05		Wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or faces, all the foregoing whether or no planed, sanded or end-jointed . . . . .		3.2%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,) PE,SG)	33 13%
	15	Wood flooring (end-matched): Jatoba ( <u>Hymenaea</u> spp.), also known as Brazilian Cherry . . . . .	m <sup>2</sup> m <sup>3</sup>			
	25	Ipe ( <u>Tabebuia</u> spp.), also known as Tahibo, LaPacho, Brazilian walnut, and Patagonian walnut . . . . .	m <sup>2</sup> m <sup>3</sup>			
	35	Santos' mahogany ( <u>Myroxylon balsamum</u> ), also known as Cabreuva . . . . .	m <sup>2</sup> m <sup>3</sup>			
	45	Cumaru ( <u>Dipteryx</u> spp.), also known as Brazilian oak . . . . .	m <sup>2</sup> m <sup>3</sup>			
	5	Other . . . . .	m <sup>2</sup> m <sup>3</sup>			
	6	Other . . . . .	m <sup>2</sup> m <sup>3</sup>			
		Other:				
4409.29.25		Wood flooring . . . . .		Free		8%
	30	Maple ( <u>Acer</u> spp.) . . . . .	m <sup>2</sup> m <sup>3</sup>			
	50	Birch ( <u>Betula</u> spp.) and beech ( <u>Fagus</u> spp.) . . . . .	m <sup>2</sup> m <sup>3</sup>			
	6	Other . . . . .	m <sup>2</sup> m <sup>3</sup>			

# Harmonized Tariff Schedule of the United States (2010) (Rev. 2)

Annotated for Statistical Reporting Purposes

IX  
44-16

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412		Plywood, veneered panels and similar laminated wood:				
4412.31		Other plywood consisting solely of sheets of wood (other than bamboo), each ply not exceeding 6 mm in thickness:				
		With at least one outer ply of tropical wood specified in subheading note 1 to this chapter:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
4412.31.05	20	With a face ply of birch ( <u>Betula</u> spp.) . . . . .		Free		50%
		Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width and 2.2 m in length . . . . .	m <sup>3</sup>			
		Other:				
	40	Not surface covered . . . . .	m <sup>3</sup>			
4412.31.25	00	Other . . . . .	m <sup>3</sup>			
		With a face ply of Spanish cedar ( <u>Cedrela</u> spp.) or walnut ( <u>Juglans</u> spp.) . . . . .		8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	40%
	10	With a face ply of Spanish cedar ( <u>Cedrela</u> spp.) . . . . .	m <sup>3</sup>			
	20	With a face ply of walnut ( <u>Juglans</u> spp.) . . . . .	m <sup>3</sup>			
4412.31.40		Other:				
		With at least one outer ply of the following tropical woods: Dark Red Meranti, Light Red Meranti, White Lauan, Sipo, Limba, Okoumé, Obeche, Acajou d'Afrique, Sapelli, Virola, Mahogany, Palissandre de Para, Palissandre de Rio or Palissandre de Rose . . . . .		8%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	40%
	40	With a face ply of mahogany ( <u>Swietenia</u> spp. or <u>Khaya</u> spp.) . . . . .	m <sup>3</sup>			
	50	Other:				
		Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width and 2.2 m in length . . . . .	m <sup>3</sup>			
	00	Other:				
	70	Not surface covered . . . . .	m <sup>3</sup>			
		Other . . . . .	m <sup>3</sup>			

# Harmonized Tariff Schedule of the United States (2010) (Rev. 2)

Annotated for Statistical Reporting Purposes

IX  
44-17

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.31 (con.)		Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness (con.):				
		With at least one outer ply of tropical wood specified in subheading note 1 to this chapter (con.):				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply (con.):				
4412.31.51	O	Other (con.):				
		ther .....		8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
	25	Wood Flooring .....	m <sup>3</sup>			
	35	Other: With a face ply of sen (Kalopanax spp.) .....	m <sup>3</sup>			
	55	Other: Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width and 2.2 m in length .....	m <sup>3</sup>			
	O	ther:				
	6	Not surface covered .....	m <sup>3</sup>			
	7	Other .....	m <sup>3</sup>			
4412.31.60	00	Other: With at least one outer ply of the following tropical woods: Dark Red Meranti, Light Red Meranti, White Lauan, Sipo, Limba, Okoumé, Obeche, Acajou d'Afrique, Sapelli, Virola, Mahogany, Palissandre de Para, Palissandre de Rio or Palissandre de Rose .....	m <sup>3</sup>	8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
4412.31.91	00	Other .....	m <sup>3</sup>	8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%

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Annotated for Statistical Reporting Purposes

IX  
44-18

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.32		Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness (con.):				
		Other, with at least one outer ply of nonconiferous wood:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
4412.32.05	20	With a face ply of birch ( <i>Betula spp.</i> ) . . . . .	m <sup>3</sup>	Free		50%
		Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width and 2.2 m in length . . . . .	m <sup>3</sup>			
	40	Other:	m <sup>3</sup>			
	60	Not surface covered . . . . .	m <sup>3</sup>			
4412.32.25		Other . . . . .	m <sup>3</sup>			
		With a face ply of Spanish cedar ( <i>Cedrela spp.</i> ) or walnut ( <i>Juglans spp.</i> ) . . . . .	m <sup>3</sup>	5.1%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
	10	With a face ply of Spanish cedar ( <i>Cedrela spp.</i> ) . . . . .	m <sup>3</sup>			
	20	With a face ply of walnut ( <i>Juglans spp.</i> ) . . . . .	m <sup>3</sup>			
4412.32.31		Other . . . . .	m <sup>3</sup>	8%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
	25	Wood Flooring . . . . .	m <sup>3</sup>			
	35	Other:	m <sup>3</sup>			
		With a face ply of sen ( <i>Kalopanax spp.</i> ) . . . . .	m <sup>3</sup>			
	55	With a face ply of mahogany ( <i>Swietenia spp.</i> or <i>Khaya spp.</i> ) . . . . .	m <sup>3</sup>			
	65	Other:	m <sup>3</sup>			
		Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width and 2.2 m in length . . . . .	m <sup>3</sup>			
	078	ther:	m <sup>3</sup>			
		Not surface covered . . . . .	m <sup>3</sup>			
		Other . . . . .	m <sup>3</sup>			
4412.32.56	00	Other . . . . .	m <sup>3</sup>	8%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%

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Annotated for Statistical Reporting Purposes

IX  
44-19

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.39		Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness (con.):				
		Other, with both outer plies of coniferous wood:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
4412.39.10	00	With a face ply of Parana pine ( <i>Araucaria angustifolia</i> )	m <sup>3</sup>	Free		40%
4412.39.30	00	With a face ply of European red pine ( <i>Pinus silvestris</i> )	m <sup>3</sup>	3.4%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
4412.39.40		Other		8%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
	11	With at least one outer ply of Douglas fir ( <i>Pseudotsuga menziesii</i> ):				
		Rough, or touch sanded for sizing purposes, but not further processed	m <sup>3</sup>			
	12	Fully sanded on at least one face, but not further processed	m <sup>3</sup>			
	19	Other	m <sup>3</sup>			
		With at least one outer ply of long leaf pine ( <i>Pinus palustris</i> ), short leaf pine ( <i>Pinus echinata</i> ), southern yellow pine (loblolly pine)( <i>Pinus taeda</i> ), slash pine ( <i>Pinus elliotti</i> ), pitch pine ( <i>Pinus rigida</i> ) or Virginia pine ( <i>Pinus virginiana</i> ):				
	31	Rough, or touch sanded for sizing purposes, but not further processed	m <sup>3</sup>			
	32	Fully sanded on at least one face, but not further processed	m <sup>3</sup>			
	39	Other	m <sup>3</sup>			
		With at least one outer ply of <i>Agathis</i> spp.:				
	51	Rough, or touch sanded for sizing purposes, but not further processed	m <sup>3</sup>			
	52	Fully sanded on at least one face, but not further processed	m <sup>3</sup>			
	59	Other	m <sup>3</sup>			



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IX  
44-20

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.39 (con.)		Other plywood consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness (con.):				
		Other, with both outer plies of coniferous wood (con.):				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply (con.):				
4412.39.40 (con.)		Other (con.):				
	61	Other:				
		Rough, or touch sanded for sizing purposes, but not further processed . . . . .	m <sup>3</sup>			
	62	Fully sanded on at least one face, but not further processed . . . . .	m <sup>3</sup>			
	Ø	Other . . . . .	m <sup>3</sup>			
4412.39.50		Other . . . . .		5.1%	Free (A+,AU,BH, CA,CL,D,E,IL,J, JO,MA,MX,OM, P,PE,SG)	40%
	10	With at least one outer ply of Douglas fir ( <u>Pseudotsuga menziesii</u> ) . . . . .	m <sup>3</sup>			
	30	With at least one outer ply of long leaf pine ( <u>Pinus palustris</u> ), short leaf pine ( <u>Pinus echinata</u> ), southern yellow pine (loblolly pine) ( <u>Pinus taeda</u> ), slash pine ( <u>Pinus elliotti</u> ), pitch pine ( <u>Pinus rigida</u> ) or Virginia pine ( <u>Pinus virginiana</u> ) . . . . .	m <sup>3</sup>			
	Ø	Other . . . . .	m <sup>3</sup>			

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IX  
44-21

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.94		Other: Blockboard, laminboard and battenboard: With at least one outer ply of nonconiferous wood:				
		Plywood:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
4412.94.10		With a face ply of birch ( <u>Betula spp.</u> ) . . . . .		Free		50%
	3	Not surface covered . . . . .	m <sup>3</sup>			
	5	Other . . . . .	m <sup>3</sup>			
4412.94.31		Other . . . . .		8%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
	05	Wood flooring . . . . .	m <sup>2</sup> m <sup>3</sup>			
		Other:				
	11	With a face ply of Spanish cedar ( <u>Cedrela spp.</u> ) . . . . .	m <sup>2</sup> m <sup>3</sup>			
	21	With a face ply of walnut ( <u>Juglans spp.</u> ) . . . . .	m <sup>2</sup> m <sup>3</sup>			
	31	With a face ply of sen ( <u>Kalopanax spp.</u> ) . . . . .	m <sup>2</sup> m <sup>3</sup>			
	41	With a face ply of mahogany ( <u>Swietenia spp.</u> or <u>Khaya spp.</u> ) . . . . .	m <sup>2</sup> m <sup>3</sup>			
	6	Other: Not surface covered . . . . .	m <sup>2</sup> m <sup>3</sup>			
	7	Other . . . . .	m <sup>2</sup> m <sup>3</sup>			
4412.94.41	00	Other . . . . .	m <sup>3</sup>	8%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
4412.94.51	00	Other . . . . .	m <sup>3</sup>	Free		40%

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IX  
44-22

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.94 (con.)		Other (con.):				
		Blockboard, laminboard and battenboard (con.)				
		Other:				
		Plywood:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
		With a face ply of Parana pine ( <i>Araucaria angustifolia</i> ) . . . . .	m <sup>3</sup> . . . . .	Free		40%
4412.94.60	00					
		With a face ply of European red pine ( <i>Pinus silvestris</i> ) . . . . .	m <sup>3</sup> . . . . .	3.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
4412.94.70	00					
		Other . . . . .	m <sup>3</sup> . . . . .	8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
4412.94.80	00					
		Other . . . . .	m <sup>3</sup> . . . . .	5.1%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
4412.94.90	00					
		Other . . . . .	m <sup>3</sup> . . . . .	Free		40%
4412.94.95	00					

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Annotated for Statistical Reporting Purposes

IX  
44-23

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.99		Other (con.):				
		Other:				
		With at least one outer ply of nonconiferous wood:				
4412.99.06	00	Containing at least one layer of particle board .....	m <sup>3</sup> .....	Free		40%
		Other:				
		Plywood:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
4412.99.10	20	With a face ply of birch ( <u>Betula spp.</u> ) .....	.....	Free		50%
		Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width and 2.2 m in length .....	m <sup>3</sup> .....			
		Other:				
		Not surface covered .....	m <sup>3</sup> .....			
4412.99.31	34	Other .....	m <sup>3</sup> .....	8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
	10	With a face ply of Spanish cedar ( <u>Cedrela spp.</u> ) .....	m <sup>3</sup> .....			
	20	With a face ply of walnut ( <u>Juglans spp.</u> ) .....	m <sup>3</sup> .....			
	30	With a face ply of sen ( <u>Kalopanax spp.</u> ) .....	m <sup>3</sup> .....			
	40	With a face ply of mahogany ( <u>Swietenia spp.</u> or <u>Khaya spp.</u> ) .....	m <sup>3</sup> .....			
	50	Other:				
		Panels not exceeding in any dimension 3.6 mm in thickness, 1.2 m in width, and 2.2 m in length .....	m <sup>3</sup> .....			
	60	Other, not surface covered .....	m <sup>3</sup> .....			
	70	Other .....	m <sup>3</sup> .....			
4412.99.41	00	Other .....	m <sup>3</sup> .....	8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO,MA,MX,OM,P,PE,SG)	40%
4412.99.51	00	Other .....	m <sup>3</sup> .....	Free		40%

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IX  
44-24

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4412 (con.)		Plywood, veneered panels and similar laminated wood (con.):				
4412.99 (con.)		Other (con.):				
		Other (con.):				
		Other:				
4412.99.57	10	Containing at least one layer of particle board .....	m <sup>3</sup> .....	Free		40%
		Other:				
		Plywood:				
		Not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the face ply:				
4412.99.60	00	With a face ply of Parana pine ( <i>Araucaria angustifolia</i> ) .....	m <sup>3</sup> .....	Free		40%
4412.99.70	00	With a face ply of European red pine ( <i>Pinus silvestris</i> ) .....	m <sup>3</sup> .....	3.4%	Free (A,AU,BH,CA,CL,E,IL,J,JO,MA, MX,OM,P,PE,SG)	40%
4412.99.80	00	Other .....	m <sup>3</sup> .....	8%	Free (A*,AU,BH,CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
4412.99.90	00	Other .....	m <sup>3</sup> .....	5.1%	Free (A*,AU,BH,CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
4412.99.95	00	Other .....	m <sup>3</sup> .....	Free		40%

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IX  
44-26

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4418		Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes:				
4418.71		Assembled flooring panels: For mosaic floors:				
4418.71.20	00	Other: Having a face ply more than 6 mm in thickness .....	m <sup>2</sup> .....	Free		33 13%
4418.71.90	00	Other .....	m <sup>2</sup> .....	8%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	40%
4418.72		Other, multilayer:				
4418.72.20	00	Having a face ply more than 6 mm in thickness .....	m <sup>2</sup> .....	3.2%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	33 13%
4418.72.95	00	Other :				
		Other .....	m <sup>2</sup> .....	8%	Free (A*, AU, BH CA,CL,E,IL,J,JO MA,MX,OM,P,PE, SG)	40%
4418.79.00	00	Other .....	m <sup>2</sup> .....	3.2%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	33 13%

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Annotated for Statistical Reporting Purposes

IX  
44-27

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
4418 (con.)		Builders' joinery and carpentry of wood, including cellular wood panels and assembled flooring panels; shingles and shakes(con.):				
4418.90		Other:				
4418.90.25	00	Drilled or notched lumber studs .....	m <sup>3</sup> .....	Free	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P,PE, SG)	\$1.70/m <sup>3</sup> 33 13%
4418.90.46		Other .....		3.2%		
	05	Wood flooring .....	m <sup>2</sup> m <sup>3</sup>			
		Other:				
	10	Arches, laminated .....	X			
	20	Roof trusses .....	X			
	40	Other fabricated structural wood members .....	X			
	50	Prefabricated partitions and panels for buildings .....	X			
	95	Other .....	X			





**APPENDIX E**  
**NONSUBJECT COUNTRY PRICE DATA**



Two importers reported price data for nonsubject country Brazil for products 1, 2, and 4, three importers reported products 1-4 for Canada, and eight importers reported price data for nonsubject country Indonesia for products 2 and 4. In comparing nonsubject country pricing data with U.S. producer pricing data, prices for product imported from nonsubject countries were lower than prices for U.S. produced product in 37 instances and higher in 62 instances. In comparing nonsubject country pricing data with subject country pricing data, prices for product imported from nonsubject countries were lower than prices for product imported from subject countries in 34 instances and higher in 65 instances. Price and quantity data for Brazil, Canada, and Indonesia are in tables E-1 to E-4 and in shown in figure E-1 with U.S. and subject sources.

**Table E-1**  
**MLWF: Weighted-average f.o.b. prices and quantities of nonsubject imported product 1, by quarters, January 2007-September 2010**

\* \* \* \* \*

**Table E-2**  
**MLWF: Weighted-average f.o.b. prices and quantities of nonsubject imported product 2, by quarters, January 2007-September 2010**

\* \* \* \* \*

**Table E-3**  
**MLWF: Weighted-average f.o.b. prices and quantities of nonsubject imported product 3, by quarters, January 2007-September 2010**

\* \* \* \* \*

**Table E-4**  
**MLWF: Weighted-average f.o.b. prices and quantities of nonsubject imported product 4<sup>1</sup>, by quarters, January 2007-September 2010**

\* \* \* \* \*

**Figure E-1**  
**MLWF: Weighted-average f.o.b. prices and quantities of domestic and imported product, by quarters, January 2007-September 2010**

\* \* \* \* \*

