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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-570-111

Vertical Metal File Cabinets from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of vertical metal file cabinets (file cabinets) from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Kathryn Wallace, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6251.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2019, Commerce published the *Preliminary Determination* of this investigation in the *Federal Register*.¹ A complete summary of the events that occurred since

¹ See *Vertical Metal File Cabinets from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 84 FR 37622 (August 1, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised for this final determination, may be found in the Issues and Decision Memorandum.²

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

As stated in the *Preliminary Determination*, the deadline for the final determination of this investigation is 75 days after the signature of the *Preliminary Determination*, or October 7, 2019.

Period of Investigation

The period of investigation (POI) is January 1, 2018 through December 31, 2018.

Scope of the Investigation

The products covered by this investigation are file cabinets from China. For a complete description of the scope of this investigation, *see* Appendix I of this notice.

Analysis of Subsidy Programs and Comments Received

Hirsch Industries, LLC, the petitioner was the only interested party to submit a case brief.³ The issues raised in the petitioner's case brief are discussed in the Issues and Decision Memorandum.

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Vertical Metal File Cabinets from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Use of Adverse Facts Available

Commerce relied on “facts otherwise available,” including adverse facts available (AFA), for certain findings in the *Preliminary Determination*. For this final determination, we continue to find that adverse inferences are warranted in selecting from facts otherwise available with respect to the certain producers and/or exporters that received quantity and value questionnaires from Commerce, but did not respond, pursuant to section 776(a)-(b) of the Act.⁴ Accordingly, we continue to find that these non-responsive companies are benefitting from countervailable subsidies from all programs identified in the Initiation Checklist (and *Preliminary Determination*).⁵

In addition, for this final determination, with respect to the GOC, we find it appropriate to rely on adverse inferences in selecting from among the facts otherwise available, pursuant to section 776(a)-(b) of the Act. We continue to rely on the sole information on the record, the Petition, to find that each of the programs identified in the Initiation Checklist (and *Preliminary Determination*) provides a financial contribution and is specific pursuant to sections 771(5)(B) and (D) and 771(5A) of the Act, respectively.⁶

For a full discussion of our application of AFA, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

³ See Petitioner’s Letter, “Vertical Metal File Cabinets from the People’s Republic of China: Petitioner’s Case Brief,” dated September 20, 2019.

⁴ See Memorandum, “Countervailing Duty Investigation of File Cabinets from the People’s Republic of China: Delivery of Quantity and Value Questionnaire to Exporters/Producers,” dated July 5, 2019.

⁵ See *Vertical Metal File Cabinets from the People’s Republic of China: Initiation of Countervailing Duty Investigation*, 84 FR 24089 (May 24, 2019) (*Initiation Notice*) and accompanying Initiation Checklist; and Preliminary Decision Memorandum at 13-37.

⁶ See Initiation Checklist. For an analysis of this information, *see* Preliminary Decision Memorandum at 13-41.

Based on the GOC's failure to respond to the questionnaire issued to it following the *Preliminary Determination* and our analysis of the comments received, we made certain changes to our specificity and financial contribution findings set forth in the *Preliminary Determination*. In addition, Commerce has revised the subsidy rate applied to the Provision of Zinc for Less Than Adequate Remuneration (LTAR) program in this final determination. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(5)(A) of the Act, Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, this rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on facts available under section 776 of the Act. However, section 705(c)(5)(A)(ii) of the Act provides that, where all countervailable subsidy rates established for the mandatory respondents are zero, *de minimis*, or based entirely on facts available, Commerce may use "any reasonable method" for assigning an all-others rate, including "averaging the estimated average countervailable subsidy rates determined for the exporters and producers individually investigated." In this investigation, all rates are based entirely on facts available, pursuant to section 776 of the Act. We are relying on a simple average of the total AFA rates assigned to the non-responsive companies as the all-others rate in this final determination, particularly because there is no other information on the record from which to determine the all-others rate.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁷ In making these findings, Commerce relied on facts otherwise available and, as discussed above and in the Issues and Decision Memorandum, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁸ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established estimated countervailable subsidy rates, as follows:

Company	Subsidy Rate
Non-Responsive Companies ⁹	271.79 percent
All Others ¹⁰	271.79 percent

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice, in accordance with 19 CFR 351.224(b). However, because Commerce continued to apply total AFA rates in the calculation

⁷ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁸ See section 776(a)-(b) of the Act.

⁹ See Appendix III: List of Companies Receiving AFA Rate.

¹⁰ See Appendix IV: List of Companies Receiving All-Others Rate.

of the benefit for the non-responsive companies based on rates calculated in prior proceedings, there are no calculations to disclose.

Continuation of Suspension of Liquidation

In accordance with sections 703(d) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all appropriate entries of file cabinets from China, as described in Appendix I of this notice, which were entered or withdrawn from warehouse, for consumption, on or after August 1, 2019, the date of publication of the *Preliminary Determination* in the *Federal Register*, for all producers and exporters of merchandise under consideration. In accordance with section 705(c)(1)(B)(ii) of the Act, we are directing CBP to continue to suspend liquidation of all imports of subject merchandise from China that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. The suspension of liquidation instructions will remain in effect until further notice. We are also directing CBP to collect cash deposits of estimated countervailing duties at the rates identified above.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our final affirmative determination that countervailable subsidies are being provided to producers and exporters of file cabinets from China. Because the final determination in this proceeding is

affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of file cabinets from China before the later of 120 days after the date of this preliminary determination or 45 days after the final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Administrative Protective Orders

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: October 7, 2019

/s/ Jeffrey I. Kessler

Jeffrey I. Kessler

Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The scope of this investigation covers freestanding vertical metal file cabinets containing two or more extendable file storage elements and having an actual width of 25 inches or less.

The subject vertical metal file cabinets have bodies made of carbon and/or alloy steel and or other metals, regardless of whether painted, powder coated, or galvanized or otherwise coated for corrosion protection or aesthetic appearance. The subject vertical metal file cabinets must have two or more extendable elements for file storage (*e.g.*, file drawers) of a height that permits hanging files of either letter (8.5" x 11") or legal (8.5" x 14") sized documents.

An "extendable element" is defined as a movable load-bearing storage component including, but not limited to, drawers and filing frames. Extendable elements typically have suspension systems, consisting of glide blocks or ball bearing glides, to facilitate opening and closing.

The subject vertical metal file cabinets typically come in models with two, three, four, or five-file drawers. The inclusion of one or more additional non-file-sized extendable storage elements, not sized for storage files (*e.g.*, box or pencil drawers), does not remove an otherwise in-scope product from the scope as long as the combined height of the non-file-sized extendable storage elements does not exceed six inches. The inclusion of an integrated storage area that is not extendable (*e.g.*, a cubby) and has an actual height of six inches or less, also does not remove a subject vertical metal file cabinet from the scope. Accessories packaged with a subject vertical file cabinet, such as separate printer stands or shelf kits that sit on top of the in-scope vertical file cabinet are not considered integrated storage.

"Freestanding" means the unit has a solid top and does not have an open top or a top with holes punched in it that would permit the unit to be attached to, hung from, or otherwise used to support a desktop or other work surface. The ability to anchor a vertical file cabinet to a wall for stability or to prevent it from tipping over does not exclude the unit from the scope.

The addition of mobility elements such as casters, wheels, or a dolly does not remove the product from the scope. Packaging a subject vertical metal file cabinet with other accessories, including, but not limited to, locks, leveling glides, caster kits, drawer accessories (*e.g.*, including but not limited to follower wires, follower blocks, file compressors, hanger rails, pencil trays, and hanging file folders), printer stand, shelf kit and magnetic hooks, also does not remove the product from the scope. Vertical metal file cabinets are also in scope whether they are imported assembled or unassembled with all essential parts and components included.

Excluded from the scope are lateral metal file cabinets. Lateral metal file cabinets have a width that is greater than the body depth, and have a body with an actual width that is more than 25 inches wide.

Also excluded from the scope are pedestal file cabinets. Pedestal file cabinets are metal file cabinets with body depths that are greater than or equal to their width, are under 31 inches in

actual height, and have the following characteristics: (1) An open top or other the means for the cabinet to be attached to or hung from a desktop or other work surface such as holes punched in the top (*i.e.*, not freestanding); or (2) freestanding file cabinets that have all of the following: (a) At least a 90 percent drawer extension for all extendable file storage elements; (b) a central locking system; (c) a minimum weight density of 9.5 lbs./cubic foot; and (d) casters or leveling glides.

“Percentage drawer extension” is defined as the drawer travel distance divided by the inside depth dimension of the drawer. Inside depth of drawer is measured from the inside of the drawer face to the inside face of the drawer back. Drawer extension is the distance the drawer travels from the closed position to the maximum travel position which is limited by the out stops. In situations where drawers do not include an outstop, the drawer is extended until the drawer back is 3 1/2 inches from the closed position of inside face of the drawer front. The “weight density” is calculated by dividing the cabinet’s actual weight by its volume in cubic feet (the multiple of the product’s actual width, depth, and height). A “central locking system” locks all drawers in a unit.

Also excluded from the scope are fire proof or fire-resistant file cabinets that meet Underwriters Laboratories (UL) fire protection standard 72, class 350, which covers the test procedures applicable to fire-resistant equipment intended to protect paper records.

The merchandise subject to the investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.10.0020. The subject merchandise may also enter under HTSUS subheadings 9403.10.0040, 9403.20.0080, and 9403.20.0090. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope of Investigation
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Discussion of the Issues
- VII. Recommendation

Appendix III

List of Non-Responsive Companies Receiving AFA Rate

1. Best Beauty Furniture Co., Ltd.
2. Chung Wah Steel Furniture Factory
3. Concept Furniture (Anhui) Co., Ltd.
4. Dong Guan Shing Fai Furniture
5. Dongguan Zhisheng Furniture Co., Ltd.
6. Feel Life Co., Ltd.
7. Fujian Ivyer Industrial Co., Ltd.
8. Fuzhou Nu Deco Crafts Co., Ltd.
9. Fuzhou Yibang Furniture Co., Ltd.
10. Gold Future Furnishing Co., Ltd.
11. Guangdong Hongye Furniture
12. Guangxi Gicon Office Furniture Co., Ltd.
13. Guangzhou City Yunrui Imp.
14. Hangzhou Zongda Co., Ltd.
15. Heze Huayi Chemical Co., Ltd.
16. Highbright Enterprise Ltd.
17. Homestar Corp.
18. Honghui Wooden Crafts Co., Ltd.
19. Huabao Steel Appliance Co., Ltd.
20. I.D. International Inc.
21. Jiangmen Kinwai International
22. Jiaxing Haihong Electromechanical Technology Co., Ltd.
23. Long Sheng Office Furniture
24. Louyong Hua Zhi Jie Office Furniture Co., Ltd.

25. Luoyang Hua Wei Office Furniture Co., Ltd.
26. Luoyang Huadu Imp. Exp. Co., Ltd.
27. Luoyang Mas Younger Office Furniture Co., Ltd.
28. Luoyang Shidiu Import & Export Co., Ltd.
29. Luoyang Zhenhai Furniture Co., Ltd.
30. Ningbo Sunburst International Trading Co., Ltd.
31. Ri Time Group Inc. (Szx)
32. Shenzhen Heng Li de Industry Co., Ltd.
33. Shenzhen Zhijuan (Zhiyuan) Technology Co., Ltd.
34. Shiny Way Furniture Co., Ltd.
35. South Metal Furniture Factory
36. Suzhou Jie Quan (Jinyuan) Trading Co., Ltd.
37. T. H. I. Group (Shanghai) Ltd.
38. Tianjin First Wood Co., Ltd.
39. UenJoy (Tianjin) Technology Co., Ltd.
40. Xiamen Extreme Creations
41. Xinhui Second Light Machinery Factory Co., Ltd
42. Yahee Technologies
43. Zhe Jiang Jiayang Imp. & Exp. Co., Ltd.
44. Zhejiang Ue Furniture Co., Ltd.
45. Zhong Shan Yue Qin Imp. & Exp.
46. Zhongshan Fmarts Furniture Co., Ltd

Appendix IV

List of Companies Receiving All-Others Rate

The companies receiving the all-others rate include:

1. Guangzhou Perfect Office Furniture
2. Guangzhou Textiles Holdings Limited
3. Huisen Furniture (Longnan) Co., Ltd.
4. Invention Global Ltd.
5. Jiangxi Yuanjin Science & Technology Group Co., Ltd.
6. Jpc Co., Ltd. (HK)
7. Leder Lighting Co., Ltd.
8. Luoyang Cuide Imp. & Exp.
9. Ningbo Haishu Spark Imp. & Exp. Co., Ltd.
10. Ningbo Haitian International Co.
11. Qingdao Liansheng
12. Shanxi Ktl Agricultural Technology Co., Ltd.
13. Shanxi Sijian Group Co., Ltd.
14. Shenzhen Zhilai Sci and Tech Co., Ltd.
15. Top Perfect Ltd.
16. Zhengzhou Puhui Trading Co., Ltd.

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