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**DEPARTMENT OF COMMERCE****International Trade Administration****[A-570-928]****Uncovered Innerspring Units From the People's Republic of China: Final Determination of Sales at Less Than Fair Value****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**DATES:** *Effective Date:* December 29, 2008.**SUMMARY:** The Department of Commerce ("Department") has determined that uncovered innerspring units ("innersprings") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV") as provided in section 735 of the Tariff Act of 1930, as amended ("Act"). The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.**FOR FURTHER INFORMATION CONTACT:** Susan Pulongbarit or Paul Walker, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4031 or (202) 482-0413, respectively.**SUPPLEMENTARY INFORMATION:****Case History**

On August 6, 2008, the Department published in the **Federal Register** its preliminary determination that innersprings from the PRC are being, or are likely to be, sold in the United States at LTFV. See *Uncovered Innerspring Units from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 45729 (August 6, 2008) ("*Preliminary Determination*"). The Department conducted a verification of Foshan Jingxin Steel Wire & Spring Co., Ltd. ("Foshan Jingxin") from September 22-26, 2008.<sup>1</sup> In accordance with 19 CFR

<sup>1</sup> See Memorandum to the File from Erin Begnal, Senior Case Analyst, and Susan Pulongbarit, Case Analyst, through Scot Fullerton, Program Manager, "Verification of the Sales and Factors of Production Response of Foshan Jingxin Steel Wire & Spring Co., Ltd. in the Antidumping Duty Investigation of Uncovered Innerspring Units from the People's

351.309(c)(i), we invited parties to comment on our *Preliminary Determination*. The Department received a case brief from Petitioner.<sup>2</sup> No other party submitted case or rebuttal briefs. In addition, on December 2, 2008, we placed new factual information on the record regarding Foshan Jingxin's affiliate Foshan Ruixin Non-Woven Co., Ltd. ("Ruixin").<sup>3</sup> On December 8, 2008, we received comments on the new factual information from both Foshan Jingxin and Petitioner.<sup>4</sup> No hearings were requested or held for this investigation.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by the parties to this investigation are addressed in the "Uncovered Innerspring Units from the People's Republic of China: Issues and Decision Memorandum for the Final Determination of Sales at Less than Fair Value," dated concurrently with this notice, which is hereby adopted by this notice in its entirety ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit in the main Commerce building, Room 1117, and is accessible on the Web at <http://www.trade.gov/ia>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

**Period of Investigation**

The period of investigation ("POI") is April 1, 2007, through September 30, 2007.

**Scope of Investigation**

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

Republic of China," dated November 4, 2008 ("Foshan Jingxin Verification Report").

<sup>2</sup> Leggett & Platt, Incorporated, hereafter known as "Petitioner".

<sup>3</sup> See the Department's letter dated December 2, 2008.

<sup>4</sup> See Letter from Garvey Schubert Barer to Secretary of Commerce, Response to the Department Letter Dated December 3, 2008 (December 8, 2008) and Letter from White & Case LLP to Secretary of Commerce, Petitioner Supplementary Information Response (December 8, 2008).

units are included in this scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

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

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

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

#### Scope-Clarification Request

Caye Home Furnishings LLC (Caye Furnishings), a U.S. manufacturer of living room furniture, requested that we clarify the scope language of the antidumping duty investigations on uncovered innerspring units from the PRC, South Africa, and the Socialist Republic of Vietnam. *See* August 25, 2008, letter from Caye Furnishings. Specifically, Caye Furnishings requested that we modify the scope of the investigations to exclude springs and individually wrapped pocket coils for upholstery seating that are not suitable for mattresses or mattress supports.

Caye Furnishings asserted that the reference to mattresses in the scope language makes clear that Petitioner intended to cover innersprings that are used in the manufacture of innerspring mattresses and did not intend to cover innersprings that are not suitable for use in mattresses or mattress supports. Caye Furnishings asserted that innersprings and individually wrapped pocket coils

that it imports for use in upholstery seating in the manufacture of living room furniture are not suitable for mattresses or mattress supports. Caye Furnishings also explained that, although the products it imports are normally classified under subheading 7320.20.5020 of the HTSUS, which is not one of the HTSUS subheadings covered by the scope of the investigations, the scope description as written could result in the treatment of its imports as subject merchandise.

In its September 11, 2008, comments on the issue, Petitioner stated that it believes the scope language is clear and that the merchandise described by Caye Furnishings is outside the scope of the investigations. Petitioner stated, however, that it does not object to the clarification of the scope for the reasons Caye Furnishings cited. *See* Memorandum to the File from Dmitry Vladamirov, Case Analyst, Re: Less-Than-Fair Value Investigations of Uncovered Innerspring Units from the PRC, South Africa, and the Socialist Republic of Vietnam, dated September 16, 2008. In its September 17, 2008, comments responding to the alternative versions of the scope-clarification language that we proposed, Petitioner stated that it does not object to amending the scope description of the investigations by excluding individual springs and individually wrapped pocket coils for upholstery seating (Petitioner stated that it objects to the proposed language which excludes any mention of end-use of the merchandise).

We have considered the various alternatives on the record for modifications of the scope language. In addition to the difficulties associated with administering antidumping duty orders with end-use as a basis for whether certain products may be considered subject merchandise, we agree with Petitioner that the merchandise Caye Furnishings described in its request is not within the scope of the investigations. Therefore, we have not modified the scope language as suggested by any of the parties.

#### Changes Since the Preliminary Determination

Based on our findings at verification, and additional information placed on the record of this investigation, we have made changes since the *Preliminary Determination*. As further discussed below, we have determined to apply total adverse facts available ("AFA") to Foshan Jingxin for purposes of this final determination. *See* Issues and Decision Memorandum at Comment 1.

#### Adverse Facts Available

Section 776(a)(2) of the Act provides that the Department shall apply "facts otherwise available" if, *inter alia*, an interested party or any other person (A) Withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 776(b) of the Act provides further that the Department may use an adverse inference when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

Pursuant to sections 776(a)(2)(A), (C) and (D) of the Act, we are applying facts otherwise available to Foshan Jingxin because it withheld certain information that was specifically requested by the Department and significantly impeded the proceeding by not providing accurate or complete responses to the Department's questions regarding the activities of its majority-owned affiliate, Ruixin, in the production of the merchandise under consideration and sale of subject merchandise to the United States. Additionally, because information discovered at verification directly contradicted information contained in Foshan Jingxin's questionnaire responses, the Department was unable to verify certain statements in Foshan Jingxin's questionnaire responses. *See* Foshan Jingxin Verification Report.

Furthermore, based on the record evidence and pursuant to section 776(b) of the Act, the Department has determined that Foshan Jingxin did not cooperate to the best of its ability to comply with the Department's requests for information. Specifically, the Department explained the nature of information on affiliates that it required in the investigation, gave Foshan Jingxin numerous opportunities to provide such information, received only denials from Foshan Jingxin that Ruixin was involved in the sale or production of the merchandise under consideration, discovered only at verification that Ruixin was in fact involved in the production of the merchandise under consideration, discovered after verification that Ruixin was involved in the sale of subject merchandise, and found that Foshan Jingxin, though its general manager, possessed this information throughout the investigation, yet failed to report it.

Therefore, in accordance with section 776(b) of the Act, we have applied total AFA to Foshan Jinxing. Accordingly, Foshan Jinxing will be assigned the PRC-wide rate as total AFA. For a complete analysis of comments received on this issue, see Issues and Decision Memorandum at Comment 1.

### Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a level of economic development comparable to that of the PRC; and (3) we have reliable data from India that we can use to value FOPs. See *Preliminary Determination*. We received no comments on our surrogate country selection. Accordingly, for the final determination, we made no changes to our finding with respect to the selection of India as a surrogate country.

### Separate Rates

In proceedings involving non-market economy (“NME”) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20589 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR at 22585, 22587 (May 2, 1994), and 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that the following separate rate applicants demonstrated their eligibility for separate-rate status: Zibo Senbao Furniture Co., Ltd., Hebei Yililan Furniture Co., Ltd., Xilinmen Group Co., Ltd., East Grace Corporation, Nanjing Meihua I&E Trade Co., Ltd., and Zhejiang Sanmen Herod Mattress Co., Ltd. (collectively “SR applicants”).

No party has commented on the eligibility of these companies for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by these companies demonstrates both a *de jure* and *de facto* absence of government control with respect to their respective exports of the

merchandise under investigation. Thus, we continue to find that they are eligible for separate rate status. Normally the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding *de minimis* margins or margins based entirely on AFA. See section 735(c)(5)(A) of the Act.

We determined in the *Preliminary Determination* that Jiangsu Soho Technology Trading Co., Ltd. (“Soho Tech.”) is not entitled to a separate rate. We received no comments on this denial of a separate rate and, for the final determination, continue to find that Soho Tech. is not entitled to a separate rate.

In the *Preliminary Determination*, we determined that Foshan Jinxing was eligible for a separate rate because it demonstrated an absence of *de jure* and *de facto* government control. At verification we found no discrepancies in Foshan Jinxing’s responses to the Department’s separate rate questions. Consequently, for the final determination we continue to find that the evidence placed on the record of this investigation by Foshan Jinxing demonstrates it is eligible for a separate rate. In past cases where a respondent company satisfies the separate-rates test, but fails to participate to the best of its ability in other aspects of the antidumping proceeding, resulting in the application of AFA, the Department may assign the AFA rate as a separate rate for that company. See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People’s Republic of China*, 72 FR 52355 (September 13, 2007) and accompanying Issues and Decision Memorandum at Comment 2. Thus, for this final determination, the Department has assigned the AFA rate of 234.51 percent to Foshan Jinxing as its separate rate.

In the *Preliminary Determination*, the Department assigned a separate rate to six exporter/producer combinations that qualified for a separate rate using a weighted-average margin based on the experience of the mandatory respondents and excluding any *de minimis* or zero rates or rates based on total AFA. See *Preliminary Determination*. In light of the application of AFA for both mandatory respondents, this methodology is no longer appropriate. In cases where the estimated weighted-average margins for all individually investigated respondents are zero, *de minimis*, or based entirely on AFA, the Department may use any reasonable method to assign the separate rate. See section

735(c)(5)(B) of the Act. In this case, where there are no mandatory respondents receiving a calculated rate and the PRC-wide entity’s rate is based upon total AFA, we find that applying the simple average of the rates alleged in the petition is both reasonable and reliable for purposes of establishing a separate rate. See, e.g., *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People’s Republic of China*, 73 FR 6479 (February 4, 2008) and accompanying Issues and Decision Memorandum at Comment 2; see also *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China*, 73 FR 31970 (June 5, 2008) (“*Steel Pipe Final*”) and accompanying Issues and Decision Memorandum at Comment 7. Therefore, the Department will assign a separate rate to the six exporter/producer combinations using the simple average of the margins alleged in the petition, pursuant to its practice. This rate is corroborated, to the extent practicable, for the reasons stated below. See “Corroboration” section below.

### The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that certain companies did not respond to our requests for information. See *Preliminary Determination*, 73 FR at 45734. In the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. In addition, in the *Preliminary Determination* we determined that High Hope Int’l Group Jiangsu Native Produce Imp. & Exp. Corp. Ltd. would be treated as part of the PRC-wide entity due to its withdrawal from the investigation and, thus, its failure to demonstrate eligibility for a separate rate. Further, in the *Preliminary Determination*, the Department found that Jiangsu Soho International Group Holding Co., Ltd. (“Jiangsu Soho”) was not eligible for a separate rate and, for the final determination, we are treating Jiangsu Soho as part of the PRC-wide entity. No additional information was placed on the record with respect to any of these companies after the *Preliminary Determination*. Therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate.

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994) (“SAA”). We determined that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate (*i.e.*, the PRC-wide entity rate) to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, *e.g.*, *Synthetic Indigo From the People’s Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide entity rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the “Final Determination Margins” section below.

In the *Preliminary Determination*, we assigned to the PRC-wide entity the highest rate calculated from the petition, 234.51 percent. See *Preliminary Determination*, 73 FR at 45735. We received no comments on this rate. Therefore, for the final determination, we have continued to assign to the PRC-wide entity the rate of 234.51 percent.

#### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that

information from independent sources that are reasonably at its disposal. We have interpreted “corroborate” to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 65 FR 5554, 5568 (February 4, 2000); see, *e.g.*, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

Because there are no cooperating mandatory respondents to corroborate the 234.51 percent margin used as AFA for the PRC-wide entity, we relied upon our pre-initiation analysis of the adequacy and accuracy of the information in the petition. See *Antidumping Investigation Initiation Checklist: Uncovered Innersprings from the People’s Republic of China* (January 22, 2008). During the initiation stage, we examined evidence supporting the calculations in the petition and the supplemental information provided by Petitioners to determine the probative value of the margins alleged in the petition. During our pre-initiation analysis, we examined the information used as the basis of export price and normal value (“NV”) in the petition, and the calculations used to derive the alleged margins. Also during our pre-initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, which corroborated key elements of the export price and NV calculations. *Id.* We received no comments as to the

relevance or probative value of this information. In past cases where there were no cooperating mandatory respondents with which to corroborate the margin used as AFA, the Department relied upon our pre-initiation analysis of the adequacy and accuracy of the information in the petition. See *Steel Pipe Final*, 73 FR at 31972. Therefore, for the final determination, the Department finds that the rates derived from the petition for purposes of initiation have probative value for the purpose of being selected as the AFA rate assigned to the PRC-wide entity.

#### Combination Rates

In the *Preliminary Determination*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. See *Preliminary Determination*, 73 FR at 45737. This change in practice is described in Policy Bulletin 05.1, available at <http://ia.ita.doc.gov/>. Policy Bulletin 05.1, 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 05.1, “Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries.”

#### Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

Exporter	Producer	Weighted-average margin (percent)
Anshan Yuhua Industrial Trade Co., Ltd .....	Anshan Yuhua Industrial Trade Co., Ltd .....	164.75
East Grace Corporation .....	Wuxi Xihuisheng Commercial Co., Ltd .....	164.75
Foshan Jingxin Steel Wire & Spring Co., Ltd .....	Foshan Jingxin Steel Wire & Spring Co., Ltd .....	234.51
Hebei Yilian Furniture Co., Ltd .....	Hebei Yilian Furniture Co., Ltd .....	164.75

Exporter	Producer	Weighted-average margin (percent)
Nanjing Meihua Import & Export Trade Co., Ltd .....	Nanjing Dongdai Furniture Co., Ltd .....	164.75
Xilinmen Group Co., Ltd .....	Xilinmen Furniture Co., Ltd .....	164.75
Zhejiang Sanmen Herod Mattress Co., Ltd .....	Zhejiang Sanmen Herod Mattress Co., Ltd .....	164.75
Zibo Senbao Furniture Co., Ltd .....	Zibo Senbao Furniture Co., Ltd .....	164.75
PRC-wide (including High Hope Int'l Group Jiangsu Native Produce Imp. & Exp. Corp. Ltd. and Jiangsu Soho International Group Holding Co., Ltd.).	.....	234.51

### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

### Continuation of Suspension of Liquidation

We will instruct U.S. Customs and Border Protection (“CBP”) to continue the suspension of liquidation required by section 735(c)(1)(B) of the Act, of all entries of subject merchandise from Foshan Jingxin, the SR Applicants and the PRC-wide entity entered, or withdrawn from warehouse, for consumption on or after August 6, 2008, the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the NV exceeds the U.S. price as shown above. See section 735(c)(1)(B)(ii) of the Act. The suspension of liquidation instructions will remain in effect until further notice.

### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine 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 the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping 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.

### Notification Regarding APO

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

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 19, 2008.

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

### Appendix

#### Comment 1: Application of Facts

Available for

- A. Unreported Affiliate.
- B. Unreported Factors of Production.

#### Comment 2: *Bona Fide* Analysis of

Foshan Jingxin’s Sales.

#### Comment 3: Surrogate Financial Ratios.

#### Comment 4: Calculation of the Scrap

Surrogate Value.

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