



U.S. Trade Cases Against China: Hardwood Plywood and Multilayered Wood Flooring

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Agenda

I. Hardwood Plywood from China

- Investigation
- Scope
- Status/Priorities

II. Multilayered Wood Flooring from China

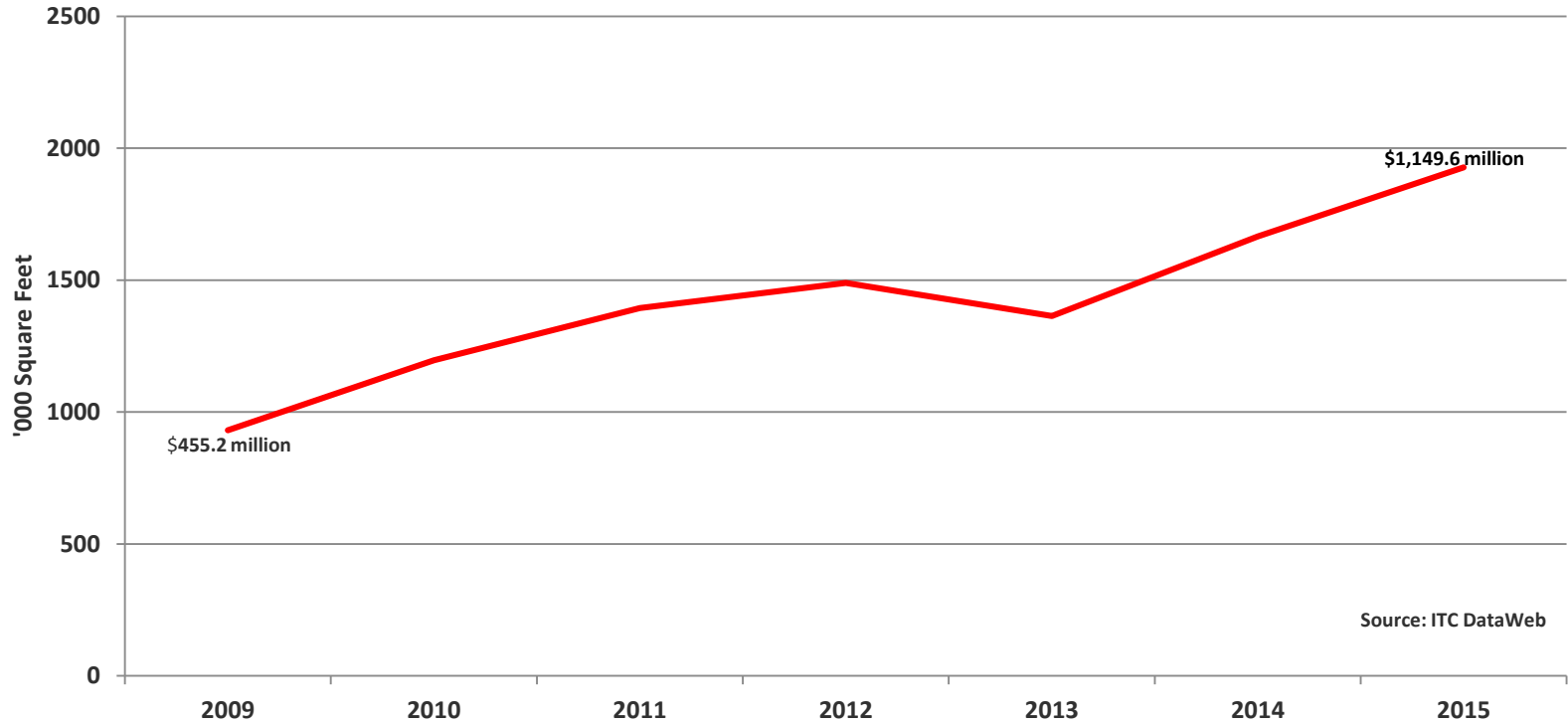
- Scope
- Status/Priorities

III. Trade and the Trump Administration

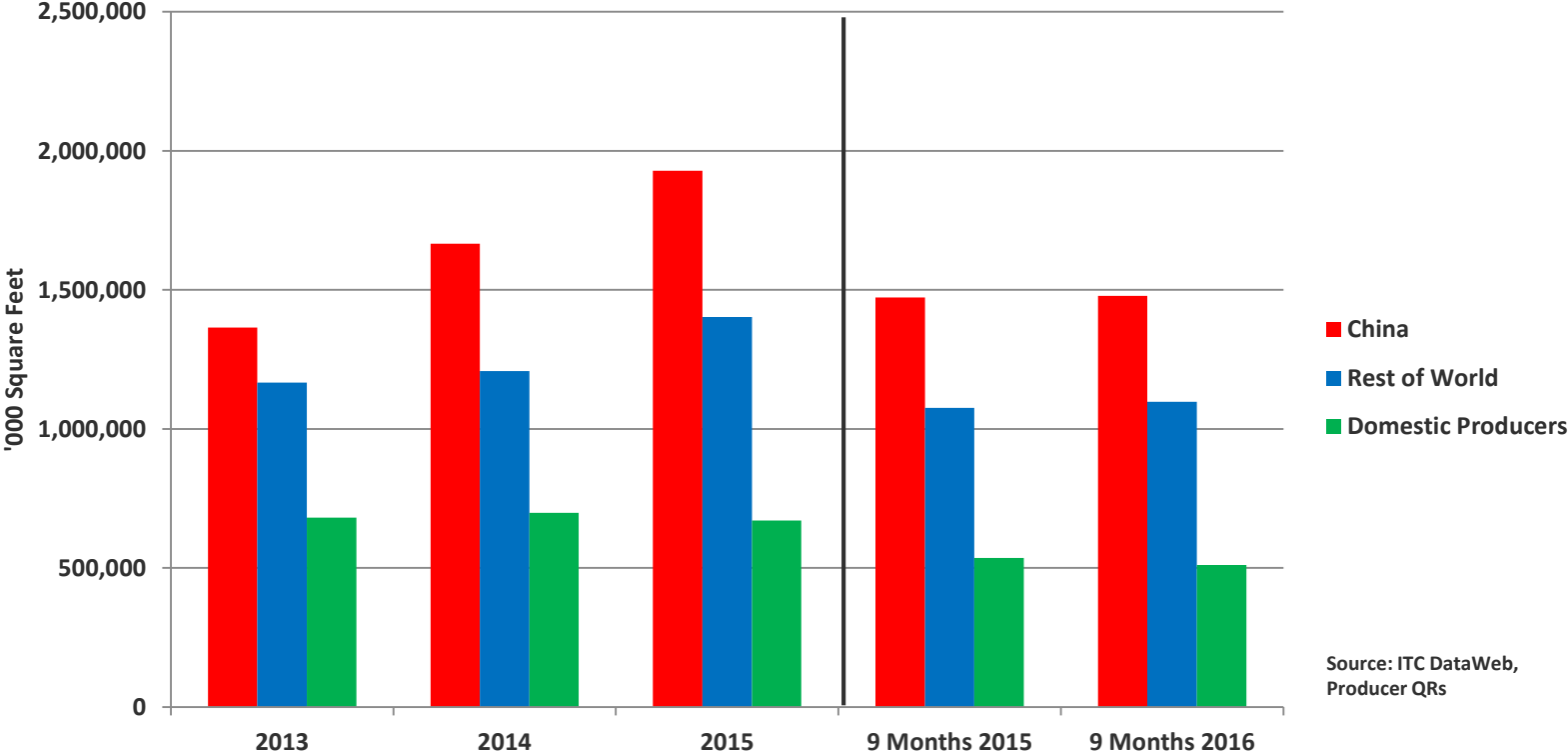
I. AD/CVD Orders on Hardwood Plywood

- On January 4, 2018, the antidumping (AD) and countervailing (CVD) duty orders were issued on hardwood plywood from China
- The Coalition filed the AD and CVD petitions on November 18, 2016
 - At initiation, Commerce initiated investigations on 31 different subsidy programs in China
- The Commerce Department made final affirmative findings of dumping and subsidies in November 2017
- The ITC made a unanimous final determination that Chinese imports injured the domestic industry on December 2017

Chinese Imports Had Risen Continuously Except During the Last Investigation



Subject Imports Had Increased, While Domestic Shipments Had Declined



Source: ITC DataWeb,
Producer QRs




Price Effect of Subject Imports

- The Coalition presented evidence that subject imports had negative price effects on the domestic like product
 - Chinese imports compete directly with the domestic like product
 - Chinese imports have relentlessly expanded across the product spectrum
 - Both Chinese and domestic producers make and sell all grades of hardwood plywood, from A to E
 - Chinese producers export hardwood plywood used in the most demanding applications, including cabinet and drawer fronts

Price Effect of Subject Imports

- Chinese imports consistently and significantly undersold the domestic like product by 20 – 50%
- Chinese imports suppressed domestic prices
 - Despite higher demand, the rising level of Chinese imports, combined with their falling AUVs, suppressed domestic prices
 - Further, the price effect of subject imports led to lost sales and lost revenue for U.S. producers
 - The loss in the domestic industry's market share has cost it over \$400 million since 2013

Impact of Subject Imports

- The Coalition presented evidence that the impact of subject imports on the domestic industry was significant
- Almost all of the industry's financial indicators declined across the POI despite higher demand throughout the POI
 - Production and shipments had fallen 
 - Gross, operating, and profits were all down 
 - Capacity utilization was below 50% and declining 

Final Dumping Margins

Exporter/Producer	Dumping Rate	Cash Deposit Rate
Shandong Dongfang Bayley Wood Co., Ltd.	183.36%	171.55%
Linyi Chengen Import and Export Co., Ltd.	183.36%	171.55%
Separate Rate Companies	183.36%	171.55%
China-Wide Entity	183.36%	

Final Subsidy Rates

Exporter/Producer	Subsidy Rate
Linyi Sanfortune Wood Co., Ltd.	22.98 %
Shandong Dongfang Bayley Wood Co., Ltd.	194.90%
Companies Subject to the Adverse Facts Available Rate	194.90%
All Others	22.98 %

ITC Key Findings

- In its final unanimous finding of injury, the ITC found:
 - “The volume of subject imports increased over the period of investigation from 1.3 billion square feet in 2014 to 1.4 billion square feet in 2015 and 1.5 billion square feet in 2016. The volume of subject imports was higher in interim 2016, at 753 million square feet, than in interim 2017, at 734 million square feet...Subject imports gained market share largely at the expense of the domestic industry.”

ITC Key Findings

- “[T]here was significant underselling of the domestic like product by the subject imports. Additionally, the significant and increasing volume of low-priced subject imports prevented price increases, which otherwise would have occurred, to a significant degree.”
- “Despite an increase in apparent U.S. consumption over the period of investigation, many of the domestic industry’s performance indicators suffered declines.”

The Scope of the Orders

The merchandise subject to this investigation is hardwood and decorative plywood, and certain veneered panels as described below. For purposes of this proceeding, hardwood and decorative plywood is defined as a generally flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, **with the face and/or back veneer made of non-coniferous wood (hardwood) or bamboo**. The veneers, along with the core may be glued or otherwise bonded together. Hardwood and decorative plywood may include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/ **HPVA HP-1-2016** (including any revisions to that standard).

The Scope of the Orders

For purposes of this investigation a “veneer” is a slice of wood regardless of thickness which is cut, sliced or sawed from a log, bolt, or flitch. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

The core of hardwood and decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. **The core may be composed of a range of materials**, including but not limited to hardwood, softwood, particleboard, or medium-density fiberboard (MDF).

The Scope of the Orders

All hardwood plywood is included within the scope of this investigation **regardless of whether or not the face and/or back veneers are surface coated or covered** and whether or not such surface coating(s) or covers obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include, but are not limited to: Ultra violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of hardwood plywood may be sanded; smoothed or given a “distressed” appearance through such methods as hand-scraping or wire brushing. **All hardwood plywood is included within the scope even if it is trimmed; cut-to-size; notched; punched; drilled; or has underwent other forms of minor processing.**

The Scope of the Orders

All hardwood and decorative plywood is included within the scope of this investigation, **without regard to dimension** (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, thickness of inner veneers, width, or length). However, the most common panel sizes of hardwood and decorative plywood are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches).

Subject merchandise also includes hardwood and decorative plywood that has been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope product.

The Scope of the Orders

The scope of the investigation **excludes the following items**: (1) **Structural plywood** (also known as “industrial plywood” or “industrial panels”) that is manufactured to meet U.S. Products Standard PS 1–09, PS 2– 09, or PS 2–10 for Structural Plywood . . . and which has both a face and a back veneer of coniferous wood;

(2) products which have a face and back veneer of cork;

(3) **multilayered wood flooring**, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People’s Republic of China . . .

(4) multilayered wood flooring with a face veneer of bamboo or composed entirely of bamboo;

(5) plywood which has a **shape or design other than a flat panel**, with the exception of any minor processing described above;

(6) products made entirely from bamboo and adhesives (also known as “solid bamboo”); and

(7) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an “Exterior” or “Exposure 1” bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m³ permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges.

The Scope of the Orders

Excluded from the scope of this investigation are **wooden furniture goods** that, at the time of importation, are fully assembled and are ready for their intended uses.

Also excluded from the scope of this investigation is “ready to assemble” (RTA) furniture. RTA furniture is defined as (A) furniture packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of furniture, (2) all accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a finished unit of furniture, and (3) instructions providing guidance on the assembly of a finished unit of furniture; (B) unassembled bathroom vanity cabinets, having a space for one or more sinks, that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional component shape/size, painted or stained prior to importation, and stacked within a singled shipping package, except for furniture feet which may be packed and shipped separately; or (C) unassembled bathroom vanity linen closets that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional shape/size, painted or stained prior to importation, and stacked within a single shipping package, except for furniture feet which may be packed and shipped separately.

The Scope of the Orders

Excluded from the scope of this investigation are **kitchen cabinets** that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this investigation are RTA kitchen cabinets. RTA kitchen cabinets are defined as kitchen cabinets packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of cabinetry, (2) all accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues) required to assemble a finished unit of cabinetry, and (3) instructions providing guidance on the assembly of a finished unit of cabinetry.

Excluded from the scope of this investigation are finished table tops, which are table tops imported in finished form with pre-cut or drilled openings to attach the underframe or legs. The table tops are ready for use at the time of import and require no further finishing or processing.

The Scope of the Orders

Excluded from the scope of this investigation are **finished countertops** that are imported in finished form and require no further finishing or manufacturing.

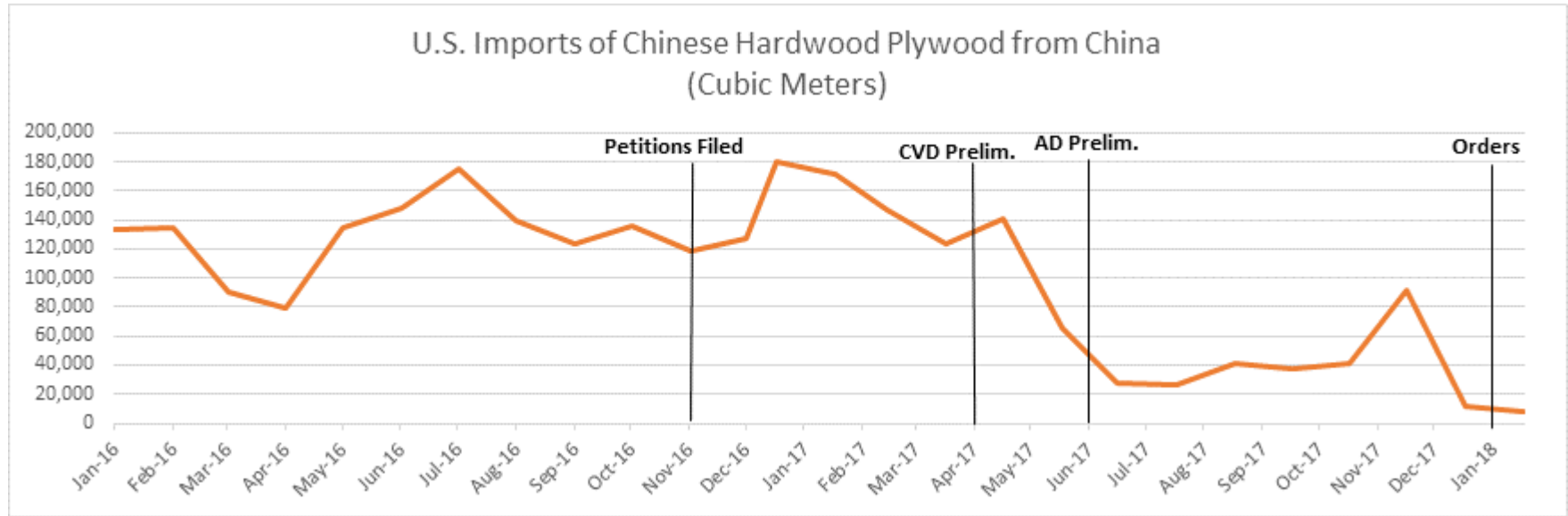
Excluded from the scope of this investigation are laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers; and (5) top layer machined with a curved edge and one or more profile channels throughout.

The Scope of the Orders

Imports of hardwood plywood are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4150; 4412.31.4160; 4412.31.4180; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5235; 4412.31.5255; 4412.31.5265; 4412.31.5275; 4412.31.6000; 4412.31.6100; 4412.31.9100; 4412.31.9200; 4412.32.0520; 4412.32.0540; 4412.32.0565; 4412.32.0570; 4412.32.0620; 4412.32.0640; 4412.32.0670; 4412.32.2510; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2630; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5600; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5700; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3141; 4412.94.3161; 4412.94.3175; 4412.94.4100; 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; 4412.99.5115; and 4412.99.5710.

Imports of hardwood plywood may also enter under HTSUS subheadings 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.10.9000; 4412.94.5100; 4412.94.9500; and 4412.99.9500. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Status: U.S. Imports of Chinese Hardwood Plywood



U.S. Imports of Chinese Hardwood Plywood by Port

District	2017	% of Total
	<i>(Cubic Meters)</i>	
Houston-Galveston, TX	199,242	17.97%
Baltimore, MD	164,266	14.81%
New York, NY	137,665	12.41%
Los Angeles, CA	137,381	12.39%
Miami, FL	112,498	10.14%
New Orleans, LA	81,026	7.31%
Savannah, GA	70,257	6.34%
Seattle, WA	40,823	3.68%
Chicago, IL	31,362	2.83%
San Francisco, CA	22,567	2.03%
Charleston, SC	17,958	1.62%
Columbia-Snake, OR	13,895	1.25%
Tampa, FL	11,241	1.01%
Norfolk, VA	10,487	0.95%
Philadelphia, PA	5,707	0.51%
All Other	52,599	4.74%

Priority Issues

- Now that the AD/CVD orders have been implemented, we are addressing circumvention, evasion, and transshipment
- Transshipment/Circumvention
 - Chinese producers have switched to softwood species (*e.g.*, radiata pine) for the face/back veneers
 - Mismarking of grades or species
 - For example, declaring imports to be pine/non-subject

Priority Issues

■ Radiata Pine Circumvention

- Four members of the Coalition filed an anti-circumvention inquiry request with Commerce regarding Chinese imports of plywood with softwood face/back veneers
- The circumvention petition asked Commerce to find that softwood-faced plywood is a “minor alteration” of hardwood plywood that Chinese producers/exporters are using to avoid AD/CVD duties
- After initiation of the trade case, softwood-faced plywood imports increased dramatically, by 400 percent in 2017 compared to 2016*
- Commerce declined to initiate a circumvention inquiry stating that the scope language requires that hardwood plywood have at least the face or back veneer made of hardwood species
- Appeal filed at U.S. Court of International Trade

* Based on official import data for HTSUS 4412.39 for full-year 2016 and January-November 2017

Priority Issues

- RTA Kitchen Cabinets/Furniture Parts Scope Inquiry
 - The Coalition and Masterbrand Cabinets filed a scope ruling request with Commerce on Chinese imports of hardwood plywood cabinet parts
 - This was filed in response to Chinese producers/exporters avoiding AD/CVD duties by improperly calling subject plywood “RTA kitchen cabinets” or “furniture parts”
 - U.S. imports from China under HTS 9403.40.90.60 totaled \$1.059 billion in 2017, a 23% increase over 2016
 - In Jan. and Feb. 2018 alone, U.S. imports exceeded \$200 million

Priority Issues

- RTA Kitchen Cabinets/Furniture Parts Scope Inquiry
 - While the scope excludes certain RTA kitchen cabinets, specific requirements must be met to qualify for the exclusion:
 - Must be “packaged for sale for ultimate purchase by an end-user” and
 - Must include at the time of importation:
 - In finished form, all wooden components required to assemble a finished unit of cabinetry;
 - All accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues) required to assemble a finished unit of cabinetry; and
 - Assembly instructions.

Priority Issues

- RTA Kitchen Cabinets/Furniture Parts Scope Inquiry
 - Chinese producers/exporters are abusing the RTA kitchen cabinet exclusion by:
 - Packaging/shipping in-scope plywood components with other items and improperly claiming the RTA kitchen cabinet exclusion applies;
 - Claiming that hardwood plywood with only minor processing is non-subject merchandise; and
 - Claiming hardwood plywood is non-subject based solely on HTS classification.

How You Can Help

- New products
- Evidence or suspicion of cheating
 - *E.g.*, duty evasion, transshipment, mismarking of grade, price, country of origin
 - Tools for the domestic industry:
 - Meet with Customs and Border Protection (“CBP”)
 - File an e-allegation regarding the evasion activity with CBP
 - File an Enforce and Protect Act allegation with CBP

II. AD/CVD Orders on Multilayered Wood Flooring: Scope of the Orders

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) 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.

II. AD/CVD Orders on Multilayered Wood Flooring: Scope of the Orders

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.

II. AD/CVD Orders on Multilayered Wood Flooring: Scope of the Orders

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, 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 HDF, and a stabilizing bottom layer.

Administrative Reviews of Multilayered Wood Flooring

■ Status:

- Wiley Rein engaged by the American Manufacturers of Multilayered Wood Flooring to manage 6th administrative reviews of the AD/CVD orders on multilayered wood flooring
- Orders in place since 2011, but ineffective due to three large Chinese producers who were found not to be dumping and therefore excluded from the orders. Low AD/CVD margins since that time on remaining producers
- The preliminary duty rates from the fifth review are:
 - AD: 0.6-0.89 percent
 - CVD: 0 percent
- The final determinations for the fifth review currently scheduled for:
 - AD: May 16, 2018
 - CVD: June 8, 2018

Administrative Reviews of Multilayered Wood Flooring AD/CVD Orders

- The 6th administrative reviews are underway.
- As of now, the preliminary determinations are scheduled for September 4, 2018, but could be extended
- Final determinations are expected in January 2019.
- In the CVD review, we recently filed new subsidy allegations requesting that Commerce investigate 14 additional Chinese government subsidy programs.

Multilayered Wood Flooring: Priority Issues

- Sunset review – won: orders will be in place 5 more years
- “Made in USA” – misleading claims by Chinese companies
- Monitoring of import trends

How You Can Help

- Evidence or suspicion of cheating
 - *E.g.*, duty evasion, transshipment, mismarking of grade, price, country of origin
 - Tools for the domestic industry:
 - Meet with Customs and Border Protection (“CBP”)
 - File an e-allegation regarding the evasion activity with CBP
 - File an Enforce and Protect Act allegation with CBP

III. Trade and the Trump Administration

- Aggressive use of trade laws
 - Section 301 investigation - Tariffs imposed on China for its violation of IP rules and technology transfer practices
- Trade agreements: focus on trade deficits and trade barriers
- Priorities (election year):
 - U.S. manufacturing and U.S. jobs
 - Regulatory reform

Questions?

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