



**DECORATIVE
HARDWOODS**
Association

42777 Trade West Drive
Sterling VA 20166

May 11, 2018

The Honorable Robert E. Lighthizer
United States Trade Representative
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20006

Re: Section 301: China's Acts, Policies and Practices Related to Technology
Transfer, Intellectual Property and Innovation -
Request to Include Chinese Wood Veneer Imports on Proposed
Product Retaliation List

Dear Ambassador Lighthizer:

These comments are submitted on behalf of the Decorative Hardwoods Association's Veneer Division pursuant to notice published at 83 Fed. Reg. 14906 (April 6, 2018). We support the determination that certain acts, policies and practices of China, as described in the USTR's notice, are unreasonable or discriminatory, and burden or restrict U.S. commerce. Furthermore, we respectfully submit that imports of wood veneers should be included on the list of products to be subject to increased duties of 25 percent.

China imports U.S. hardwood logs for processing into veneer and other value add products but uses both tariff and non-tariff barriers to severely impede the imports of U.S. hardwood veneers manufactured from the same U.S. log species that they import to protect their domestic veneer industry. Those veneers are then used in faces of hardwood plywood (HWPW) and wear layer faces in multi-layered wood flooring (MLWF). Both Chinese manufactured



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hardwood plywood and multi-layered wood flooring are subject to U.S. anti-dumping and countervailing duty orders.¹

The Decorative Hardwoods Association (DHA; formerly known as Hardwood Plywood and Veneer Association) was founded in 1921, and represents the hardwood plywood, hardwood veneer, and engineered hardwood flooring industries. The Veneer Division of DHA is composed of approximately 20 sliced and rotary manufacturing companies. About 40 veneer mills have closed in the U.S. as the U.S. furniture industry, a principal market for veneer, moved to China, the hardwood plywood and engineered flooring industries were decimated by Chinese imports of those products, and hardwood veneer exports to China dropped to a trickle. U.S. hardwood log exports to China sky rocketed. China's policies on US hardwood veneer imports is not fair trade.

¹ See *Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order*, 76 Fed. Reg. 76693 (December 8, 2011); *Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 Fed. Reg. 76690 (December 8, 2011); *Countervailing Duty Investigation of Certain Hardwood Plywood Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 Fed. Reg. 53473 (November 16, 2017); *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 Fed. Reg. 53460 (November 16, 2017).



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A. Product Description and Tariff Classification

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 face veneer is the exposed veneer of a plywood panel which is of a superior grade than that of the other exposed veneer of the plywood panel (*i.e.*, as opposed to the inner veneers).

Wood veneers may also form the core of engineered wood products such as hardwood (decorative) plywood and multilayered wood flooring. A veneer core “platform” is defined as two or more wood veneers that form the core of an otherwise completed engineered wood product.

Imports of wood veneers are classified in heading 4408 of the Harmonized Tariff Schedule of the United States (HTSUS), as follows:

HTSUS, Chapter 44, Subheading 4408:

Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm:

Subheading 4408.10: Veneers of coniferous woods

Subheading 4408.31: Veneers of tropical wood: Dark Red Meranti, Light Red Meranti and Meranti Bakau.

Subheading 4408.39: Veneers of tropical wood of other than Dark Red Meranti, Light Red Meranti and Meranti Bakau



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Subheading 4408.90: Other veneers

There are antidumping and countervailing duty orders currently in effect with respect to both hardwood plywood and multilayered wood flooring imports from China.¹ There are currently no unfair trade orders in effect with respect to wood veneers themselves.

While there are strong bases for inclusion of wood veneers on the list of products from China that may be subject duties as a result of this “section 301” investigation, the real concern for the U.S. veneer manufacturers is open and fair access to Chinese markets.

B. Bases for Request for Inclusion of Imports of Wood Veneers from China on Product List for Increased Duties

1. Provision of subsidies to Chinese wood processors

The Government of China (including provincial and local governmental units) provides wood processors including veneer, hardwood plywood and engineered wood flooring (MLWF) in China with an expanse of over 3 dozen subsidies. These subsidies provide these companies with a competitive advantage over imports of downstream wood products (*e.g.*, veneers, plywood, flooring, furniture). The types of subsidies provided include but are not limited to:

- provision of timber and veneers for less than adequate remuneration (including the sourcing of wood materials from illegal or suspect sources);
- land-use rights;
- cash grants
- provision of electricity and water for less than adequate remuneration;
- preferential loans and directed credit;
- special tax rebates and forgiveness for unpaid taxes; and
- valued-added tax ("VAT") and tariff exemptions.



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These subsidy programs, among others, have previously been determined by the Commerce Department to constitute countervailable subsidies or are the subject of ongoing Commerce Department investigation. All of these programs benefit engineered wood product manufacturers in China to the detriment and injury of U.S. manufacturers and exporters.

The provision of subsidies to Chinese wood processors (which have been found for HWPW and MLWF) supports the inclusion of wood veneer imports from China on the list of products subject to increased duties of 25 percent.

We support free trade but also support fair trade. Barriers to U.S. veneer into China constitutes the most egregious unfair trade practice.

2. Inverted tariffs and non-tariff barriers

China maintains an inverted tariff system for imports of wood products. Specifically, while the Chinese duty rate for U.S. veneer imports is the range of 3-5 percent (and often higher, as discussed below). The Chinese duty rate on U.S. log imports is zero. The VAT on U.S. logs is 11% but rebated when veneer or lumber from those logs is exported. The VAT for U.S. veneer is 24%. Port customs office “re-value” U.S. veneer imports to subject those veneers to even higher VAT and duties. This allows Chinese wood processors (including manufacturers of engineer wood products and veneer producers) to access a principle raw material (logs) duty-free, while providing a fundamental market barrier to the competitive downstream imports. While Chinese downstream producers are clearly advantaged by this inverted tariff system, U.S. manufacturers



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are handicapped in their ability to export to China. This is especially significant since China remains by far the world's largest consumer and importer of logs.²

² Trade data published by the U.S. Department of Agriculture, Foreign Agricultural Service (FAS) starkly demonstrates the imbalance in trade between the U.S. and China. For example, in 2017, U.S. exports of hardwood logs to China totaled approximately 1.21 million cubic meters, while U.S. imports of hardwood logs from China totaled a mere 3,915 cubic meters. See <https://apps.fas.usda.gov/GATS/default.aspx> (last accessed May 9, 2018).

The large and growing demand in China for U.S. hardwoods is well-documented by FAS. For example, in a Global Agricultural Information Network (GAIN) Report of April 2018, FAS reports on several large importers of U.S. wood and timber in Northeast China, and specifically records imports by just three companies totaling almost 6,500 cubic meters in 2017. GAIN Report Number SH0030 (*U.S. Wood Hot Amongst Northeastern Chinese Wood Importers* (4/19/2018)). The report goes on to note that “the wood importers expressed their confidence in China’s increasing demand for wood and the stable supply and sustainability of U.S. wood products.”

In a GAIN report of late 2017, FAS reported as follows:

China’s imports of wood products are forecast to continue increasing in 2017. The increase is in response to a decline in domestic production despite a strong domestic demand. Starting in early 2016, China banned commercial logging in natural forests to allow forests to recover from decades of over-logging and to help restore forest ecosystems. This ban is estimated to reduce China’s wood production by about 50 million cubic meters (m³), an estimated 8 percent of total production. Hence, in the next three to five years, China will need to import more timber to compensate for the reduction in domestic timber production as a result of the ban.

GAIN Report Number CH17061 (*Strong Domestic Demand and Declining Production Encourage Wood Imports in 2017* (11/6/2017)). The report further states:

China remains the largest wood based panel producer in the world. China’s 2017 wood based panel production is forecast at 315 million m³, about four percent higher than the estimated 302 million m³ in 2016. Plywood accounts for about 60 percent of China’s total wood based panel production, followed by fiberboard,



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In addition, other non-tariff barriers include opaque rules of origin that often shift from one entry port to another, local content requirements, declared value practices, and phytosanitary requirements.

Together, these tariff and non-tariff barriers support the inclusion of wood veneer imports from China on the list of products subject to increased duties of 25 percent. If only to open the discussions on fair access by U.S. veneer producers to the Chinese market. We import \$3.6 million of Chinese hardwood veneer and our exports of hardwood veneer have dropped from \$19.85 million in 2013 to \$7.92 million in 2017. U.S. hardwood log exports to China have surged from \$269.38 Million in 2013 to \$534.37 million in 2017. (Source :FAS.USDA)

3. Applied duty rates in excess of “bound” duty rates

The applied Chinese duty rate for imports of veneer for “most favored nations” (which includes the U.S. under the U.S.-China Permanent Normal Trade Relations Agreement) is

and particle board.

Id. And in an October 2017 report, FAS reports that as a result of a buying mission to the U.S. the prior year:

Dongxin Lumber has imported over 80 containers of North Carolina Red Oak, White Oak, Black Walnut and Hickory hardwood lumber, valued at roughly \$1.6 million... China’s demand for American hardwoods has been on the rise in recent years as Chinese incomes grow and the Chinese are seeking to upgrade the quality of their home through better interiors. U.S. hardwoods are seen as a premium product.

GAIN Report Number SH0018 (*Shenyang Loading Up on U.S. Lumber (10/16/2017)*).



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generally higher than the Chinese “bound” duty rates for imports of veneers. (The “bound” duty rate is the highest duty rate that can be applied by China under the terms of that country’s accession to the WTO in the absence of a trading partner’s specific agreement otherwise; the applied duty rate can be lower than the bound duty rate, but it should not be higher than the bound rate.) As detailed in the table below,³ for each of the four tariff schedule subheadings which encompass veneers, the high range of the applied duty rates exceeds the high range of the bound rates:

Applied MFN Duty Rates:

<u>Tariff Schedule Subheading</u>	<u>Average Duty Rate for All Tariff Lines Within Subheading</u>	<u>Highest Rate</u>	<u>Lowest Rate</u>
4408.10	5.0	8	4
4408.31	5.5	10	4
4408.39	5.5	10	4
4408.90	3.3	4	3

Bound MFN Duty Rate:

<u>Tariff Schedule Subheading</u>	<u>Average Duty Rate for All Tariff Lines Within Subheading</u>	<u>Highest Rate</u>	<u>Lowest Rate</u>
4408.10	4.0	4	4
4408.31	4.0	4	4
4408.39	4.0	4	4
4408.90	3.0	3	3

Applied tariffs in excess of bound tariff rates appear to be in violation of China’s WTO agreements and obligations, and specifically, in violation of the U.S.-China Permanent Normal

³ Source: <http://tariffdata.wto.org/ReportersAndProducts.aspx>



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Trade Relations Agreement.⁴ While this may constitute grounds for institution of a stand-alone “section 301” investigation pertaining to wood veneer, it also makes the inclusion of wood veneer imports from China on the list of products subject to increased duties of 25 percent particularly appropriate.

As a result, the imposition of increased duties on wood veneer imports from China would squarely address a significant trade distorting imbalance confronted by U.S. manufacturers without any residual or unintended impact on the U.S. market and U.S. consumers. More importantly it would open up the discussion for more open and fair trade of U.S. veneer into the Chinese market.

On behalf of the Veneer Division of DHA, we appreciate the opportunity to submit these comments.

Respectfully submitted,

Kip Howlett
President
Decorative Hardwoods Association

⁴ P.L. 106-286, 114 Stat. 880 (106th Cong, 1st Sess.) (October 10, 2000).