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Commerce Department Makes Important Scope Ruling in Hardwood Plywood Case
Ruling Will Strengthen Enforcement and Deter Evasion of Antidumping/Subsidy Duties on Hardwood Plywood from China

The Commerce Department has issued an affirmative final scope ruling finding that hardwood plywood used in kitchen cabinets is subject to antidumping (AD) and countervailing duties (CVD) unless it is packaged for sale to a consumer end-user of a cabinet with all components necessary to assemble the cabinet together in a single, discrete package. Unless this narrow exclusion is fully met, importers will owe 200% duties on these products going forward.

Commerce also confirmed that hardwood plywood that has had minor processing remains subject merchandise. Minor processing may include HWPW that has been cut-to-size, painted, laminated, stained, ultra violet light finished, grooved, covered in paper, and/or edge banded. Such merchandise is subject to the orders on HWPW from China regardless of the country in which the minor processing takes place.

For additional information, please contact Tim Brightbill of Wiley Rein LLP at 202-719-3138.

- To read the ruling, please click [here](#).

Here is a summary of the decision:

- (1) HWPW that is not packaged for sale for ultimate purchase by a consumer end-user in packaging containing (i) all wooden components of a kitchen cabinet, (ii) all hardware accessories, and (iii) written instructions needed for the consumer to assemble the kitchen cabinet is covered by the scope and does not meet the exclusion for Ready-to-Assemble kitchen cabinets:** Commerce found that the scope language was clear that, to meet the RTA kitchen cabinet exclusion, merchandise must be shipped with all the materials enumerated in the exclusion and must be packaged in a manner suitable for purchase by an end-use consumer in a single package. While the scope does not expressly identify how the merchandise must be packaged or expressly define “end-user,” Commerce explained that the requirements in the RTA kitchen cabinet exclusion that the merchandise be “packaged for sale for ultimate purchase by and end-user” and be packaged with “instructions providing guidance on the assembly of a finished unit of cabinetry” together make clear that an “end-user” is a retail consumer. Commerce further found that the requirements of the RTA kitchen cabinet exclusion also made clear that all merchandise must be packaged in a single, discrete package at the time of

importation. Accordingly, Commerce concluded that, to meet the RTA kitchen cabinet exclusion, “the RTA kitchen cabinets must be packaged at the time of importation in a manner such that an end-use retail consumer would be able to open the package and assemble a specific kitchen cabinet with, and only with, the included components.”

- (2) HWPW that has been cut-to-size, painted, laminated, stained, ultra violet light finished, grooved, and/or covered in paper is covered by the scope:** Commerce explained that the scope includes express language stating that minor processing does not remove otherwise subject merchandise from the scope of the Orders. Commerce further found that the scope expressly contemplates the types of minor processing at issue in the scope request. Thus, Commerce concluded that the scope unambiguously covered HWPW that has undergone the minor processes identified in the scope request. Commerce also stated that such merchandise is covered regardless of where such processing may have taken place.
- (3) HWPW that has been edge banded is covered by the scope:** Commerce explained that the scope states that minor processing does not remove otherwise subject merchandise from the scope of the Orders, and the scope provides an exemplary list of minor processing, including types of surface coatings. Commerce found that evidence on the record showed that edge banding is a simple, inexpensive process that is comparable to other surface coatings and minor processes expressly enumerated in the scope. Accordingly, Commerce concluded that edge banding is a form of minor processes contemplated by the scope language and, therefore, HWPW that has been edge banded is covered by the scope.

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