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U.S. Customs and
Border Protection



November 20, 2018

PUBLIC VERSION

EAPA Cons. Case Number 7252

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Re: Notice of Initiation of Investigation and Interim Measures

Messrs Wong, Xu, Bennett, Stone, McNichols, Coors and Levy:

This letter is to inform you that U.S. Customs and Border Protection ("CBP") has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act ("EAPA"), into certain import transactions of Far East American, Inc. ("Far East"), Ciel Group, Inc. ("Ciel"), American Pacific Plywood, Inc. ("American Pacific"), InterGlobal Forest ("InterGlobal"), and Liberty Woods International, Inc. ("Liberty Woods"), hereafter referred to as the "Importers." Specifically, CBP is investigating whether the Importers evaded the antidumping ("AD") order, A-570-051,¹ and countervailing duty ("CVD") order, C-570-052,² on *Certain Hardwood Plywood from the*

¹ *Certain Hardwood Plywood from the People's Republic of China: Antidumping Order*, 83 Fed. Reg. 504 (Dept. Commerce, Jan. 4, 2018) ("Antidumping Order").

² *Certain Hardwood Plywood from the People's Republic of China: Countervailing Duty Order*, 83 Fed. Reg. 513 (Dept. Commerce, Jan. 4, 2018).

People's Republic of China (hereinafter the "Orders"). Because the evidence thus far establishes a reasonable suspicion that the Importers have entered merchandise into the United States through evasion, CBP has imposed interim measures pursuant to 19 C.F.R. § 165.24.

Period of Investigation

Pursuant to 19 C.F.R. § 165.2, an EAPA investigation covers "entries of alleged covered merchandise made within one year before the receipt of an allegation...." Entry is defined as "an entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States." See 19 C.F.R. § 165.1. CBP may, at its discretion, investigate other entries of covered merchandise and the period of investigation remains open until CBP has issued a final determination. See 19 C.F.R. § 165.2.

Plywood Source, LLC ("Plywood Source" or "Alleger") initially filed five allegations separately identifying and alleging Far East, Ciel, American Pacific,¹ InterGlobal and Liberty Woods as importers that have entered plywood through evasion of AD and CVD orders. At CBP's discretion, multiple allegations against one or more importers may be consolidated into a single investigation. See 19 C.F.R. § 165.13(a). As explained below, CBP has determined that the individual investigations against the five importers meet the criteria to consolidate under 19 C.F.R. § 165.13(b). In this case, Plywood Source filed its five allegations on July 9, 2018, and CBP acknowledged receipt of the properly filed allegation on July 25, 2018. Therefore, the Importers' entries covered by this investigation are those entries of hardwood plywood from the People's Republic of China ("China") that were entered for consumption, or withdrawn from warehouse for consumption, from July 25, 2017 through the pendency of this investigation. See 19 C.F.R. § 165.2.

Initiation

On August 15, 2018, the Trade Remedy Law Enforcement Directorate ("TRLED") within CBP's Office of Trade initiated an investigation under EAPA. TRLED determined that the allegations submitted by Plywood Source, and consolidated by CBP, reasonably suggested evasion of AD/CVD duties. Plywood Source alleged that the Importers entered Chinese origin hardwood plywood into the United States that was transhipped through Vietnam and falsely declared as being of Vietnamese origin. Plywood Source's allegations provide evidence supporting the existence of a transshipment scheme in which the Importers were engaged. Specifically, the alleger contends that Vietnamese manufacturer-exporter Vietnam Finewood ("VN Finewood") was established and began operations in Vietnam subsequent to the Department of Commerce's ("The Department" or "Commerce") AD/CVD orders on hardwood plywood from China for the purpose of evading the orders. The alleger began compiling data and information on VN Finewood shortly after the company began operations in April 2018. According to the alleger, VN Finewood does not possess the capacity to produce the volume of merchandise that it has exported to the named U.S. importers, and is instead importing finished hardwood plywood from China and shipping the merchandise to the United States falsely as a product of Vietnam.

¹ In its initial allegation filing, Plywood Source identified Cosco International, the shipper of the merchandise, as the importer of record. Prior to initiation of the investigation, Plywood Source amended its allegation filing to identify American Pacific as the importer of record for the subject merchandise. See Allegation 7254 (July 9, 2018).

To support this claim, the allegor provides two videos taken within the VN Finewood facility in Hanoi, Vietnam. In the first video, workers are shown offloading crates purported to be plywood from China into VN Finewood's facility. As the crates are stacked within VN Finewood's warehouse, a worker is instructed to remove a "Made in China" label from the crate.⁴ The video footage of the interior of the warehouse depicts many similar crates, stacked floor to ceiling, and little machinery and presses typically used in the production of plywood.

The allegor also provides Vietnamese customs data indicating that VN Finewood shipped an aggregate of more than 200 containers of hardwood plywood to each of the Importers during VN Finewood's first month in operation.⁵ The Vietnamese export data is supplemented with publicly available import data showing hardwood plywood shipped by VN Finewood and entered into the United States by importers American Pacific, Ciel, and InterGlobal.⁶ The Allegor therefore argues that VN Finewood is transshipping subject merchandise to the Importers based on the visual depiction of the production capacity at VN Finewood and the offloading of crates of plywood with labels indicating that the product was "Made in China."

To further substantiate this claim, the second video shows workers inspecting shipping documents and breaking the seal on container [REDACTED]. As the container is opened, crates visibly pre-packaged and marked with the name and logo for InterGlobal Forest can be seen. The video reveals a worker inspecting a delivery notice of the container to "Vietnam Finewood." The container is then taken into the VN Finewood facility, ostensibly to be shipped in the pre-packaged crate to InterGlobal.⁷ The allegor provides public import/export data indicating that the container originated as a full container in Jiangsu, China and was discharged full in Haiphong, Vietnam on June 29, 2018.⁸ The Allegor supplements the contents of the video with Vietnamese customs data showing shipments of hardwood plywood from VN Finewood to InterGlobal. The data indicates that VN Finewood shipped [REDACTED] cubic meters ("CBM"), or approximately [REDACTED] containers,⁹ of plywood to InterGlobal between April and July 2018.¹⁰

CBP will initiate an investigation if it determines that "[t]he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion." See 19 CFR §165.15(b). Evasion is defined as "the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data

⁴ See Allegations 7252-7256, at 1 (July 9, 2018) (providing a link to Dropbox hosting video of VN Finewood facility).

⁵ See *id.*, at 1 (providing Vietnamese export data for each of the U.S. importers).

⁶ See Allegations 7253-55, at Exh. 1 (providing Shipments from VN Finewood to Ciel, American Pacific, and InterGlobal).

⁷ See Allegation 7255 (providing a video taken inside VN Finewood facility).

⁸ See *id.*, at 1 (providing data for PS Shipment Link, Cargo Tracking from China to Vietnam, [REDACTED]).

⁹ A 40' General Purpose (40'GP) container has a volume of 67 cubic metres and will hold 55-60 cubic metres of cargo. See "FAQ's: How many cubic meters of cargo can I put in a 20' container 40' container and 40' High Cube container?" (available at www.worldargonetwork.com.au/faq.html).

¹⁰ See Allegation 7255, at 1 (providing Vietnamese export data for June 2018). The Vietnamese import/export data submitted by the allegor is in a spreadsheet and does appear to be an original source document. The allegor has attested to its validity and indicated that the information is official Vietnamese customs data, provided by [REDACTED] who wish to remain anonymous.

or information, written or oral statement, or act that is material and false, or any omission that is material and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise." See 19 CFR §165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD duty order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD duty cash deposits or other security.

In its allegations, Plywood Source provided evidence to reasonably suggest that the Importers entered merchandise into the United States through evasion by a material false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD and CVD cash deposits or other security. Information submitted by Plywood Source reasonably suggested the Importers entered Chinese origin hardwood plywood into the United States through evasion. Video footage taken at VN Finewood's facility depicts containers of finished hardwood plywood arriving pre-packaged from China and subsequently shipped to InterGlobal in the United States, and is corroborated by public source data indicating that the shipment originated in China. Further video evidence indicates that VN Finewood does not have the production capacity to produce the volume of merchandise it exports to the Importers, and instead is receiving and re-labeling Chinese shipments of subject merchandise for shipment to the Importers as a product of Vietnam. For the foregoing reasons, TRLED determined on July 25, 2018, that the allegations reasonably suggest that Importers entered covered merchandise into the customs territory of the United States through evasion by a material false statement or act, or material omission, and initiated an investigation pursuant to 19 U.S.C. § 1517 (b)(1).

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, CBP will decide based on the investigation whether there is reasonable suspicion that such covered merchandise was entered into the customs territory of the United States through evasion. Therefore, CBP need only have sufficient evidence to support a reasonable suspicion that merchandise subject to an AD duty or CVD order was entered into the United States by the importer(s) by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD/CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 U.S.C. §1517(e) and 19 CFR § 165.24. As explained below, CBP is imposing interim measures because there is a reasonable suspicion that the Importers named in the allegation entered covered merchandise into the customs territory of the United States through evasion. See 19 CFR § 165.24(a).

Subsequent to the initiation of the investigation, the allegor provided additional factual information to support its contention that VN Finewood supplements its limited production by importing finished hardwood plywood from China for export to the Importers. Plywood Source submitted factual information from public import/export sources identifying seven shipments of hardwood plywood from [] in China to VN Finewood. The

shipments occurred between June and October, 2018 and totaled [] cubic meters, or approximately [] containers of merchandise manifest as plywood.¹¹

CBP conducted a site visit to VN Finewood to verify the information in the videos and accompanying allegation that were submitted by the allegor. CBP visited VN Finewood's production facility on October 25, 2018, and issued a report of its findings (herein after referred to as the "site visit report").¹² The findings conveyed in the site visit report articulate several inconsistencies and discrepancies in the actual quantity and description of merchandise shipped from VN Finewood to the Importers. CBP also verified that the video was taken at the VN Finewood facility, as CBP personnel were able to identify specific buildings and structures from their October 25, 2018, site visit that are visible in the video footage.¹³

The U.S. delegation met with several VN Finewood officials, including [], VF General Manager; [], Operations Manager; [], Manager; and [], Purchasing Manager, to discuss and review VN Finewood's production operations. VN Finewood officials stated that the company produces various types, grades, sizes and finishes of plywood, and specified that it used [] wood in production. However, VN Finewood officials did not mention the use of birch in production of plywood. This omission by VN Finewood officials is relevant, as only birch plywood was visible and labelled in the [] processing station and packaging areas of the facility.¹⁴ Also, according to public import data, consistent with CBP data, all but one entry into the United States of hardwood plywood from VN Finewood was entered as plywood with face ply of birch.¹⁵

The site visit report also details the quantity and type of equipment, as well as the number of employees on site used in the production of plywood. VN Finewood officials indicated that there are a total of [] presses, with [] presses within the facility. The VN Finewood officials stated that the company has about [] workers, operates [] days per week, [] hours/day, with [] shifts per day. Occasionally, it operates on [], as needed.¹⁶ A VN Finewood official asserted that the available equipment and personnel allow the company to produce [] containers, or approximately [] cubic meters of plywood per month. The VN Finewood officials further stated that approximately [] percent of its plywood production is exported to the United States, and [] percent is sold domestically in Vietnam.¹⁷

In order to produce the purported quantity of plywood exported and sold domestically, VN Finewood would require approximately 20 cold presses, 20 hot presses, and 1000 employees.

¹¹ See Plywood Source Factual Information submission at 1 (providing Vietnamese Customs data for imports of plywood to VN Finewood from China during the period of June - October 2018).

¹² See CBP Vietnam Finewood Site Visit Report, Oct. 29, 2018.

¹³ See Memo to the File, Nov. 14, 2018.

¹⁴ See Site Visit Report, at 2.

¹⁵ See CBP import data, showing imports of plywood from VN Finewood, June 26 - November 11, 2018, Nov. 11, 2018.

¹⁶ See Site Visit Report, at 2.

¹⁷ Id. at 2, 3.

working 24 hours per day, 7 days per week.¹⁸ However, only a fraction of that equipment and employees are at VN Finewood. Thus, evidence reasonably suggests that VN Finewood is not manufacturing all of the plywood it is exporting and selling domestically and is procuring it from another source. In addition, during the CBP site visit, VN Finewood indicated that machinery in its facility included [] veneer laying stations, as well as [] finish station. CBP research indicates that [] finish station is not sufficient for producing the quantity of plywood sold domestically and exported by VN Finewood.¹⁹ Moreover, that [] finish station was not operational at the time of the visit.

Given the foregoing observations and analysis by CBP of the VN Finewood facility, coupled with video footage taken within VN Finewood's facility showing merchandise with "Made in China" labels, and merchandise that arrived to VN Finewood pre-packaged and ready to ship to one of the named importers, corroborated by Vietnamese import data showing that VN Finewood imports plywood from China, there exists a reasonable suspicion that VN Finewood does not possess the infrastructure, equipment or personnel necessary to produce the volume and type of hardwood plywood it shipped to the Importers. Therefore, CBP has determined that there is reasonable suspicion that Importers entered merchandise through evasion based on the alleged transshipment scheme described above.

As interim measures, CBP is directing that all unliquidated entries of imported merchandise under this investigation that entered the United States as not subject to AD duties will be rate-adjusted to reflect that they are subject to the AD/CVD orders on hardwood plywood from China and cash deposits are now required. Additionally, "live entry" is required for all future imports from the Importers, meaning that all entry documents and duties must be provided before cargo is released by CBP into the U.S. commerce. CBP will reject any entry summaries and require a refile for those that are within the entry summary reject period; suspend the liquidation for any entry that has entered on or after August 15, 2018, the date of initiation of this investigation; as well as extend the period for liquidation for all unliquidated entries that entered before that date. See 19 C.F.R. § 165.24(b)(1)(i) and (ii). Further, CBP will evaluate the Importers' continuous bonds and will require single transaction bonds as appropriate.

Consolidation of the Investigations

CBP is consolidating the five investigations on each importer into a single investigation covering all of the importers named in the allegation. The new consolidated case number will be EAPA Consol. Case No. 7252, and a single administrative record will be maintained.

At its discretion, CBP may consolidate multiple allegations against one or more importers into a single investigation, pursuant to 19 C.F.R. §165.13(b), which stipulates that:

¹⁸ See Plywood Source Factual Information submission, showing its machinery and production capacity at VN Finewood's Vietnam facility, Oct. 4, 2018.

¹⁹ See "Quality Control in China: UV Coating (Finishing) Line for Plywood and Engineered Wood Panels" (available at <http://www.plywoodinspection.com/2016/01/26/uv-coating-uv-curing-finishing-line-for-plywood-and-engineered-wood-panels/>) (last visited Nov. 20, 2018).

The factors that CBP may consider (in consolidating multiple allegations) include, but are not limited to, whether the multiple allegations involve: 1) relationships between the importers; 2) similarity of covered merchandise; 3) similarity of AD/CVD orders; and 4) overlap in time periods for entries of covered merchandise.

In these investigations, the Importers entered hardwood plywood, covered by the same AD/CVD orders. Moreover, each imported covered merchandise during the period of investigation. Further, each imported goods subject to the same transshipment scheme from the same Vietnamese manufacturer. Because factors warranting consolidation are present in these investigations, CBP is consolidating them and providing this notice pursuant to 19 C.F.R. §165.13(c). These facts support the consolidation of these investigations.

For any future submission or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP, as well as to all other parties to this investigation, which would also include alleged, Mr. Odir Levy, President, Plywood Source, LLC, at ofir@plywoodsource.com. See 19 C.F.R. §§ 165.4, 165.23(c), and 165.26. Should you have any questions regarding this investigation, please feel free to contact us at epaallegations@cbp.dhs.gov. Please include "EAPA Cons. Case Number 7252" in the subject line of your email.

Sincerely,



Carrie L. Owens
Director
Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
Office of Trade