

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-051, C-570-052

Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain hardwood plywood with face and back veneers of radiata and/or agathis pine that: (1) has a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that it is compliant with TSCA/CARB requirements; and (2) is made with a resin, the majority of which is comprised of one or more of three product types – urea formaldehyde, polyvinyl acetate, and/or soy – (inquiry merchandise), exported from the People's Republic of China (China), is circumventing the antidumping (AD) and countervailing duty (CVD) orders on certain hardwood plywood products from China.¹

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Rachel Greenberg, or Hannah Falvey AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0652, or (202) 482-4889 respectively.

¹ See *Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018) and *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order*, 82 FR 513 (January 4, 2018) (collectively, *Orders*).

SUPPLEMENTARY INFORMATION:

Background

On September 21, 2018, Commerce published in the *Federal Register* the notice of initiation of this anti-circumvention inquiry.² For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included at Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Orders

The products covered by the *Orders* are certain hardwood plywood products. For a complete description of the scope of the *Orders*, *see* the Preliminary Decision Memorandum.⁴

Scope of the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers certain plywood products with face and back veneers of radiata and/or agathis pine that: (1) TSCA or CARB label certifying that it is compliant with TSCA/CARB requirements; and (2) is made with a resin, the majority of which is

² *See Certain Hardwood Plywood Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 47883 (September 21, 2018) (*Initiation Notice*).

³ *See* Memorandum, "Preliminary Decision Memorandum for the Anti-Circumvention Inquiry on the Antidumping and Countervailing Duty Orders on Certain Hardwood Plywood Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (*Preliminary Decision Memorandum*).

⁴ *Id.*

comprised of one or more of the following three product types: urea formaldehyde, polyvinyl acetate, and/or soy exported from China. This preliminary ruling applies to all shipments of inquiry merchandise on or after the date of the initiation of this inquiry. Importers and exporters of plywood from China with both outer veneers made of a softwood species of wood (softwood plywood products), must certify that the softwood plywood products do not meet all three of the following criteria: (1) have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy; and (3) have a TSCA or CARB label certifying that they are compliant with TSCA/CARB requirements, as provided for in the certifications in the appendices to this *Federal Register* notice.

Methodology

Commerce is conducting this anti-circumvention inquiry in accordance with section 781(d) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that the inquiry merchandise exported from China is circumventing the *Orders*. As such, we preliminarily determine that it is appropriate to include this merchandise within the *Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend any entries of inquiry merchandise from China that entered the United States on or after the date of the initiation of this inquiry.

Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of inquiry merchandise that were entered, or withdrawn from warehouse, for consumption on or after September 18, 2018, the date of initiation of the anti-circumvention inquiry.

The suspension of liquidation instructions will remain in effect until further notice. Commerce will instruct CBP to require AD cash deposits equal to the China-wide rate of 182.90 percent and CVD cash deposits equal to the rate established for the China all-others rate of 22.98 percent, unless the importer/exporter can certify to CBP that the Chinese-origin inquiry merchandise was supplied by a Chinese manufacturer with a company-specific separate rate. In that instance, the cash deposit rate will be the rate of the Chinese inquiry merchandise manufacturer that has its own rate.⁵

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this anti-circumvention inquiry, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁶ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this anti-circumvention inquiry are

⁵ See, e.g., *Glycine from the People's Republic of China: Preliminary Partial Affirmative Determination of Circumvention of the Antidumping Duty Order and Initiation of Scope Inquiry*, 77 FR 21532, 21535 (April 10, 2012), unchanged in *Glycine from the People's Republic of China: Final Partial Affirmative Determination of Circumvention of the Antidumping Duty Order*, 77 FR 73426 (December 10, 2012).

⁶ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230, at a time and date to be determined.

International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to this anti-circumvention inquiry within the *Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(d) of the Act and 19 CFR 351.225(j).

/s/ Jeffrey I. Kessler

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

June 4, 2019

Date

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Scope of the Anti-Circumvention Inquiry
- V. Analytical Framework for Later-Developed Merchandise Anti-Circumvention Inquiry
- VI. Analysis
- VII. Additional Analysis
- VIII. Anti-Circumvention Determination
- IX. Certification Program
- X. Recommendation

Appendix II

If an importer imports plywood from China with outer veneers both made of softwood plywood, and claims that its softwood plywood products produced in China do not meet all three of the following criteria: (1) have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy; and (3) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that they are compliant with TSCA/CARB requirements, then the importer is required to complete and maintain the importer certification attached hereto as Appendix III.

The importer and exporter are required to maintain the exporter certification attached hereto as Appendix IV. The importer certification must be completed, signed, and dated at the time of the entry of the plywood product. The exporter certification must be completed, signed, and dated at the time of shipment of the relevant entries. For shipments and/or entries on or after June 4, 2019, but before the publication of this notice in the *Federal Register*, for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the *Federal Register*. The importer and Chinese exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to CBP as part of the entry process. However, the importer and the exporter will be required to present the certifications and supporting documentation to the Department of Commerce (Commerce) and/or U.S. Customs and Border Protection (CBP), as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries. If it is determined that the certification and/or documentation requirements in a certification have not been met, Commerce intends to instruct CBP to suspend, under the China Plywood orders (A-570-051, C-570-052), all unliquidated entries for which these requirements were not met and require the importer to post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce. Entries suspended under A-570-051 and C-570-052 will be liquidated pursuant to applicable administrative reviews of the China orders or through the automatic liquidation process.

Appendix II IMPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL’S NAME} and I am an official of {IMPORTING COMPANY};
- This certification pertains to {INSERT ENTRY NUMBER(S), ENTRY LINE NUMBER(S), AND PRODUCT CODE(S) REFERENCED ON ENTRY SUMMARY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the plywood with both outer veneers made of a softwood species of wood (softwood plywood products) produced in the People’s Republic of China (China) that entered under entry number(s) {INSERT ENTRY NUMBER(S)} and are covered by this certification. “Direct personal knowledge” for purposes of this certification refers to facts in records maintained by the importing company in the normal course of its business. The importer should have “direct personal knowledge” of the importation of the product (*e.g.*, the name of the exporter) in its records;
- I have personal knowledge of the facts regarding the production of the imported softwood plywood products covered by this certification. “Personal knowledge” for purposes of this certification includes facts obtained from another party (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the materials used to produce the imported softwood plywood products);
- The softwood plywood products produced in China that are covered by this certification are not subject to the orders on certain hardwood plywood products from China because they do not meet all three of the following criteria: (1) have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy; and (3) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that they are compliant with TSCA/CARB requirements;
- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT IMPORTING COMPANY NAME} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain a copy of the Exporter’s Certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {INSERT IMPORTING COMPANY NAME} is required to maintain and provide a copy of the Exporter’s Certification and supporting records, upon request, to CBP and/or Commerce;

- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
 - suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met, and
 - the requirement that the importer post applicable antidumping duty (AD) and/or countervailing duty (CVD) cash deposits (as appropriate) equal to the rates determined by Commerce;
- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at the time of filing the entry summary for the relevant importation; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

NAME OF COMPANY OFFICIAL

SIGNATURE

TITLE

DATE

Appendix IV
EXPORTER CERTIFICATION

I hereby certify that:

- My name is {INSERT COMPANY OFFICIAL’S NAME HERE} and I am an official of {INSERT NAME OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the plywood with both outer veneers made of a softwood species of wood (softwood plywood products) identified below;
- The softwood plywood products produced in China that are covered by this certification are not subject to the orders on certain hardwood plywood products from China because they do not meet all three of the following criteria: (1) have both outer veneers of radiata and/or agathis pine; (2) are made with a resin, the majority of which is comprised of urea formaldehyde, polyvinyl acetate, and/or soy; and (3) have a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that they are compliant with TSCA/CARB requirements;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer at the time of shipment;
- I understand that {INSERT NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification and/or failure to substantiate the claims made herein will result in:
 - suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met and
 - the requirement that the importer post applicable antidumping duty (AD) and countervailing duty (CVD) cash deposits equal to the rates as determined by Commerce;
- This certification was completed at or prior to the time of shipment; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

NAME OF COMPANY OFFICIAL

SIGNATURE

TITLE

DATE