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40-42, 44-46, 48, 49, 51, 52, Exhibit List and
Exhibits 9, 10, and 15
PUBLIC VERSION

The Honorable Wilbur L. Ross, Jr.
Secretary of Commerce
International Trade Administration
Attn: Enforcement and Compliance
APO/Dockets Unit, Room 18022
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Re: *Certain Hardwood Plywood Products from the People's Republic of China:*
Request for Scope Ruling/Anti-Circumvention Ruling

Dear Secretary Ross:

On behalf of the Coalition for Fair Trade in Hardwood Plywood,¹ the petitioning coalition in the underlying antidumping and countervailing duty ("AD/CVD") investigations and a domestic interested party in the above-mentioned proceeding ("Coalition" or "Petitioner"), pursuant to 19 C.F.R. § 351.225(c), we hereby request that the U.S. Department of Commerce (the "Department") issue a scope ruling confirming that certain hardwood plywood products from the People's Republic of China ("China") that are assembled in the Socialist Republic of Vietnam ("Vietnam") before being imported into the United States are within the scope of the AD/CVD

¹ The individual members of the Coalition are as follows: Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, States Industries Inc., and Timber Products Company.

orders on certain hardwood plywood products from the People's Republic of China (the "Orders").² In the alternative, Petitioner requests, pursuant to section 781(b) of the Tariff Act of 1930 (the "Act"), *as amended*, codified at 19 U.S.C. § 1677j(b), and 19 C.F.R. § 351.225(h), that the Department find that these products constitute merchandise completed or assembled in a third country that is circumventing and should be included within the scope of the Orders. Petitioner respectfully requests that the Department issue a final scope ruling or circumvention determination as expeditiously as possible, within 45 days of receipt of this request, to prevent further harm to the domestic industry.

As discussed below, information reasonably available to Petitioner demonstrates that Chinese hardwood plywood is undergoing minor assembly and finishing in Vietnam and entering the United States as Vietnamese-origin plywood for the express purpose of avoiding AD/CVD duties. Specifically, Petitioner has learned that Chinese producers are manufacturing the face veneers, back veneers, and core veneers for plywood that would fall within the scope of the Orders in China and are then shipping the face and back veneers and either an assembled core or individual core veneers for layup to Vietnam for mere assembly into plywood before importation into the United States. The finished plywood imported into the United States from Vietnam otherwise meets the description of subject merchandise. For the reasons discussed below, Petitioner respectfully requests that the Department confirm that this merchandise is included in the scope of the Orders.³

² See *Certain Hardwood Plywood Products From the People's Republic of China*, 83 Fed. Reg. 504 (Dep't Commerce Jan. 4, 2018) (amended final deter. of sales at less than fair value, and antidumping duty order) ("AD Order"); *Certain Hardwood Plywood Products From the People's Republic of China*, 83 Fed. Reg. 513 (Dep't Commerce Jan. 4, 2019) (countervailing duty order) ("CVD Order").

³ Petitioner notes that on January 17, 2020, the Department published a notice of a covered merchandise referral and initiation of a scope inquiry regarding certain hardwood plywood products produced by Vietnam Finewood

I. BACKGROUND

On December 16, 2016, the Department published its notice of initiation of the AD/CVD investigations into certain hardwood plywood products from China.⁴ As the scope made clear, the investigation covered all hardwood and decorative plywood, and certain veneered panels, regardless of dimension, coating (or lack thereof), minor processing, further processing in a third country, or categorization under the Harmonized Tariff Schedule of the United States (“HTSUS”).⁵ In its final determination, the Department confirmed the breadth of the scope, explaining that “the scope language includes all products which meet the physical description of the scope and do not otherwise qualify for an exclusion.”⁶

A. The Scope of the Orders

Following affirmative determinations by the Department and the U.S. International Trade Commission (the “Commission”), AD/CVD orders were issued in January 2018. The final scope language is as follows:

Company Limited from China-origin materials. *See Certain Hardwood Plywood From the People’s Republic of China*, 85 Fed. Reg. 3024 (Dep’t Commerce Jan. 17, 2020) (notice of covered merchandise referral and initiation of scope inquiry) (“Covered Merchandise Referral Notice”). U.S. Customs and Border Protection’s scope referral request describes the merchandise as “2-ply cores of Chinese origin, which are further processed in Vietnam to include the face and back veneers of non-coniferous wood.” *See* Memorandum from Shawn Thompson, Dir., Off. V, Enf’t and Compliance, AD/CVD Operations, to The File, re: U.S. Customs and Border Protection Enforce and Protect Act Investigation No. 7252, *Certain Hardwood Plywood Products from the People’s Republic of China (A-570-051 and C-570-052): Placement of Covered Merchandise Referral Documents on the Record* (Jan. 21, 2020), attached at **Exhibit 1**. Petitioner submits that the referenced inquiry was recently initiated and still pending, but that there may be overlap in the merchandise at issue in Petitioner’s request for a scope ruling/anti-circumvention ruling and the merchandise covered by the referenced inquiry. *See id.*

⁴ *Certain Hardwood Plywood Products From the People’s Republic of China*, 81 Fed. Reg. 91,125 (Dep’t Commerce Dec. 16, 2016) (initiation of less-than-fair-value inv.) (“AD Initiation Notice”); *Certain Hardwood Plywood Products From the People’s Republic of China*, 81 Fed. Reg. 91,131 (Dep’t Commerce Dec. 16, 2016) (initiation of countervailing duty inv.) (“CVD Initiation Notice”).

⁵ *See* AD Initiation Notice at 91,130-31; CVD Initiation Notice at 91,135-36.

⁶ Memorandum from James Doyle, Dir., Off. V, Antidumping and Countervailing Duty Operations, to James Maeder, Senior Dir. performing the duties of Deputy Asst. Sec’y for Antidumping and Countervailing Duty Operations, re: *Certain Hardwood Plywood Products from the People’s Republic of China: Final Scope Comments Decision Memorandum* (Nov. 6, 2017) at 8 (“Final Scope Memo”).

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 nonconiferous 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).

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).

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; epoxyester 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.

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 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 (including any revisions to that standard or any substantially equivalent international standard intended 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, Import Administration, International Trade Administration. See Multilayered Wood Flooring from the People’s Republic of China, 76 FR 76690 (December 8, 2011) (amended final determination of sales at less than fair value and antidumping duty order), and Multilayered Wood Flooring from the People’s Republic of China, 76 FR 76693 (December 8, 2011) (countervailing duty order), as amended by Multilayered Wood Flooring from the People’s Republic of China: Amended Antidumping and Countervailing Duty Orders, 77 FR 5484 (February 3, 2012); (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.

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.

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. 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.

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.⁷

B. History of Evasion

Since the initiation of the underlying investigations, there has been rampant evasion of AD/CVD duties on Chinese hardwood plywood, threatening to undermine the trade relief accorded to the domestic industry. For instance, Chinese producers and/or exporters circumvented the Orders by developing a product with face and back veneers of certain species of softwood, specifically radiata pine and agathis pine, that is suitable for interior/decorative use following the initiation of the underlying investigations, for the express purpose of avoiding duties. In response, on November 22, 2019, the Department issued an affirmative final determination in the anti-circumvention inquiry covering plywood products with face and back veneers of radiata and/or agathis pine that have a Toxic Substances Control Act (“TSCA”) or California Air Resources Board (“CARB”) label certifying that it is compliant with TSCA/CARB requirements, and are made with a resin, the majority of which is comprised of one or more of the following three product

⁷ AD Order at 512-13; CVD Order at 515-16.

types – urea formaldehyde, polyvinyl acetate, and/or soy.⁸ Pursuant to the Department’s finding that this merchandise is circumventing the Orders, such products are now subject to the Orders.⁹

On September 7, 2018, the Department also issued a scope ruling regarding the following products:

(1) Hardwood plywood, regardless of size, coating, and/or minor processing, that is not packaged for sale for ultimate purchase by a consumer end user in a package containing (i) all the wood components of the kitchen cabinet, (ii) all the hardware accessories (e.g., screws, washers, dowels, nails, handles, knobs, hooks, and adhesive glues), and (iii) written instructions needed for the consumer to assemble the kitchen cabinet. Specific products include: hardwood plywood that is shipped without all of the following: (i) all wooden components of the kitchen cabinet, (ii) all required hardware, and (iii) written instruction so that the end user can assemble the cabinet; and shipments of all three of the above required contents but not packaged in a manner suitable for purchase by an end-use consumer;

(2) Hardwood plywood that has been cut-to-size, painted, laminated, stained, ultra-violet light finished, grooved, and/or covered in paper, regardless of where such processing took place; and

(3) Hardwood plywood that has been edge banded.¹⁰

The Coalition and Masterbrand Cabinets Inc. provided evidence that Chinese hardwood plywood that otherwise meets the description of the scope was improperly entering the United States as non-subject merchandise despite the fact that such merchandise did not meet the requirements of any exclusions to the scope.¹¹ Based on this evidence, the Department determined that the products

⁸ *Certain Hardwood Plywood Products From the People’s Republic of China*, 84 Fed. Reg. 65,783 (Dep’t Commerce Nov. 29, 2019) (affirm. final deter. of circ. of the antidumping and countervailing duty orders) (“Final Circ. Deter. Notice”).

⁹ *Id.*

¹⁰ *See* Memorandum From James C. Doyle, Dir., Office V, AD/CVD Operations to James Maeder, Associate Deputy Asst. Sec’y for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, re: *Final Scope Ruling for Certain Hardwood Plywood Products from the People’s Republic of China: Request by the Coalition for Fair Trade in Hardwood Plywood and Masterbrand Cabinets Inc.* (Sept. 7, 2018) (“Petitioner-Masterbrand 2018 Scope Ruling”).

¹¹ *See id.*

at issue are covered by the scope of the Orders based on the unambiguous scope language, concluding that the agency did not even need to consider the criteria set forth in 19 C.F.R. § 351.225(k)(1) or the additional factors provided in 19 C.F.R. § 351.225(k)(2) because the plain scope language is dispositive.¹²

Parties have also evaded the Orders by transshipping subject merchandise through third countries, including Vietnam and Cambodia. For instance, on November 20, 2018, U.S. Customs and Border Protection (“CBP”) issued notice of initiation of an investigation under the Enforce and Protect Act (“EAPA”) targeting certain U.S. importers – Far East American, Inc., Ciel Group, Inc., American Pacific Plywood, Inc., InterGlobal Forest, and Liberty Woods International, Inc., and announced interim measures, finding there to be reasonable suspicion that these importers have evaded the Orders.¹³ Specifically, the evidence indicated that these importers entered Chinese hardwood plywood into the United States that was transshipped through Vietnam – specifically through Vietnam Finewood (“VN Finewood”), an entity that was established and began operations in Vietnam subsequent to the issuance of the Orders – and falsely declared as being of Vietnamese origin.¹⁴ The evidence included videos of workers offloading crates purported to be plywood from China into VN Finewood’s facility and removing “Made in China” labels from the crates.¹⁵ The evidence also indicated that VN Finewood did not have the production capacity necessary to produce the volume of merchandise ultimately exported to the U.S. importers under

¹² See *id.* at 19.

¹³ See Letter from Carrie L. Owens, Dir., Enf’t Ops. Division, Trade Remedy Law Enf’t Directorate, Off. of Trade, to Messrs. Wong, Xu, Bennett, Stone, McNichols, Coors and Levy, re: *Notice of Initiation of Investigation and Interim Measures (EAPA Cons. Case Number 7252)* (Nov. 20, 2018), attached at **Exhibit 2**.

¹⁴ See *id.* at 2.

¹⁵ See *id.* at 3-4.

investigation.¹⁶ CBP also conducted a site visit to VN Finewood to verify the information in the allegation.¹⁷ Based on the available evidence, the agency determined that there is a reasonable suspicion that the covered importers entered merchandise through evasion and, therefore, imposed interim measures.¹⁸ Similarly, on October 1, 2019, CBP issued a notice of initiation for another EAPA investigation under the Orders, finding a reasonable suspicion that U.S. importers InterGlobal Forest, LLC; American Pacific Plywood, Inc.; and U.S. Global Forest Inc. evaded the Orders by importing Chinese-origin plywood that was transshipped through Cambodia and imposed interim measures.¹⁹

Vietnam, in particular, has become a top destination for the illegal transshipment of Chinese products.²⁰ Indeed, the Government of Vietnam has recognized the pervasive nature of such illegal transshipment and recently announced that, beginning December 27, 2019, it is planning to suspend transshipment and temporary imports of plywood products headed to the United States.²¹ The import trends corroborate this and strongly suggest that Chinese hardwood plywood is being transshipped through Vietnam.

¹⁶ See *id.* at 3-4.

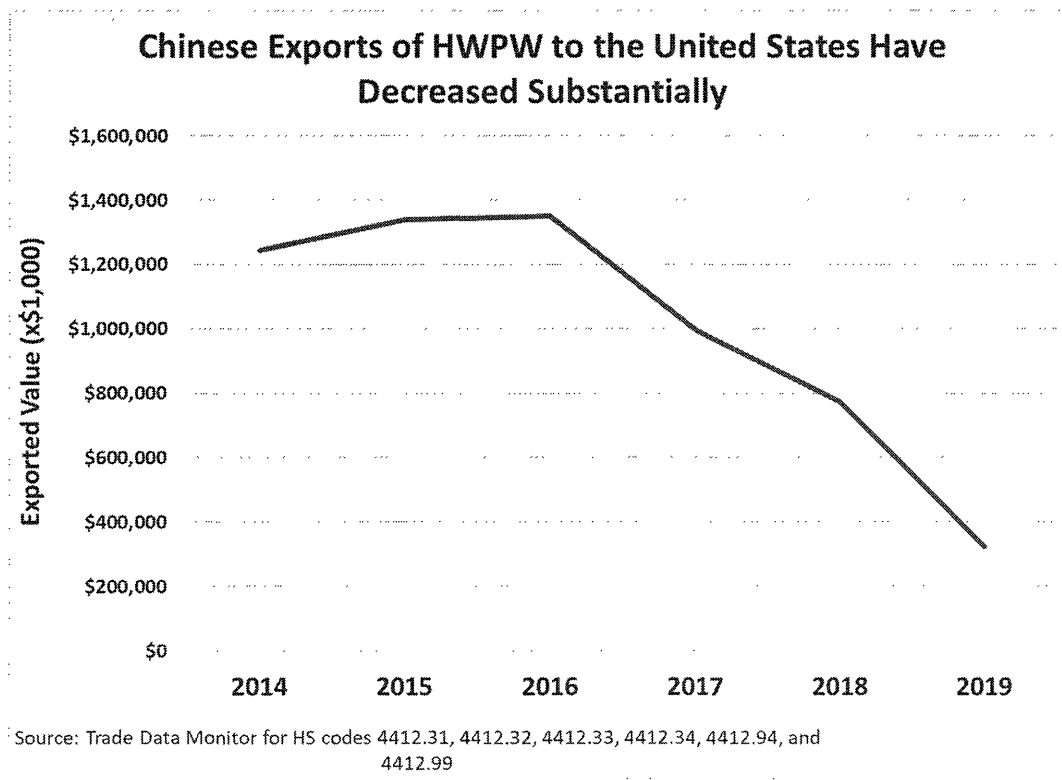
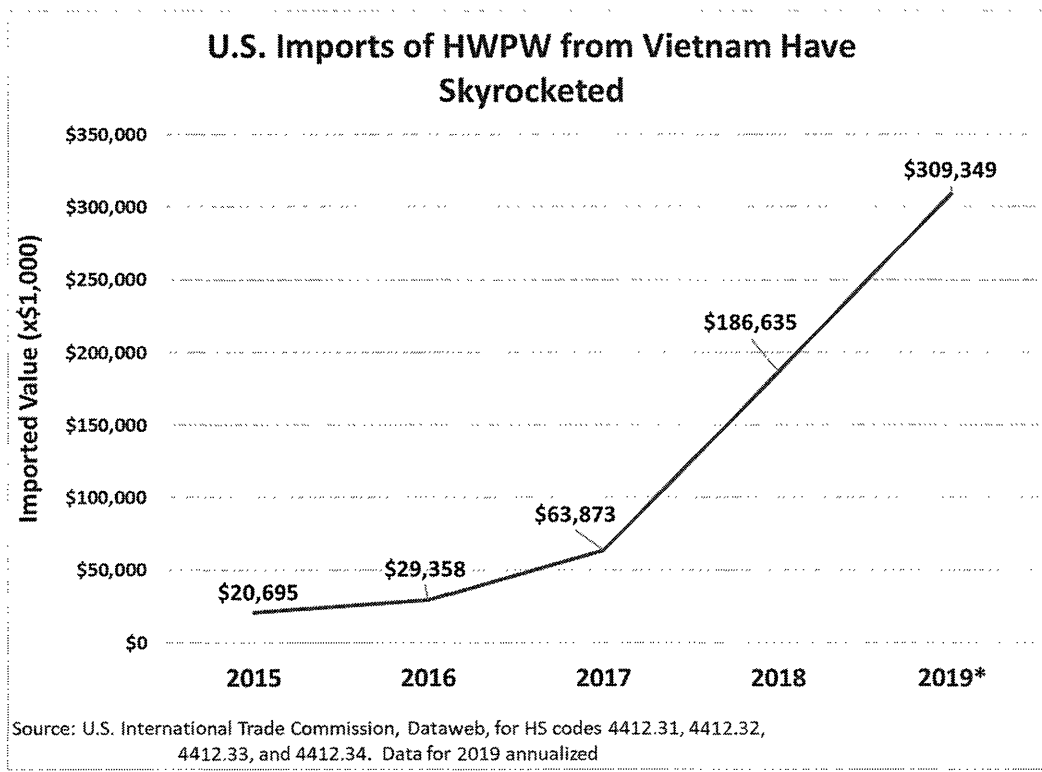
¹⁷ See *id.* at 4-5.

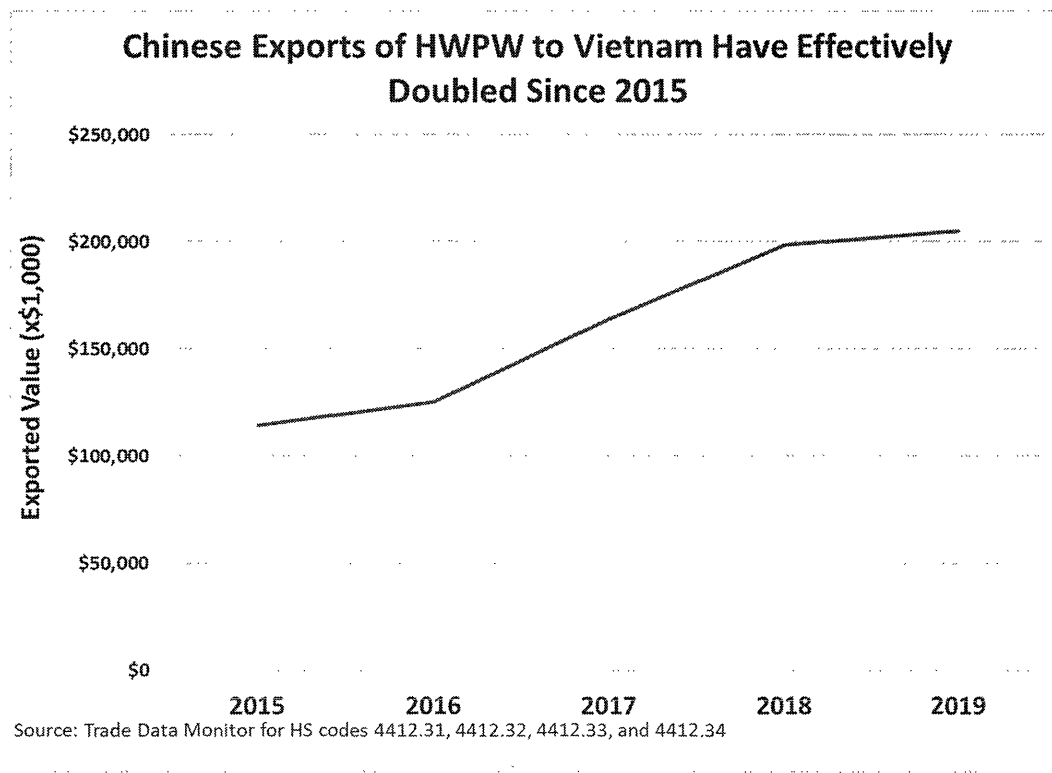
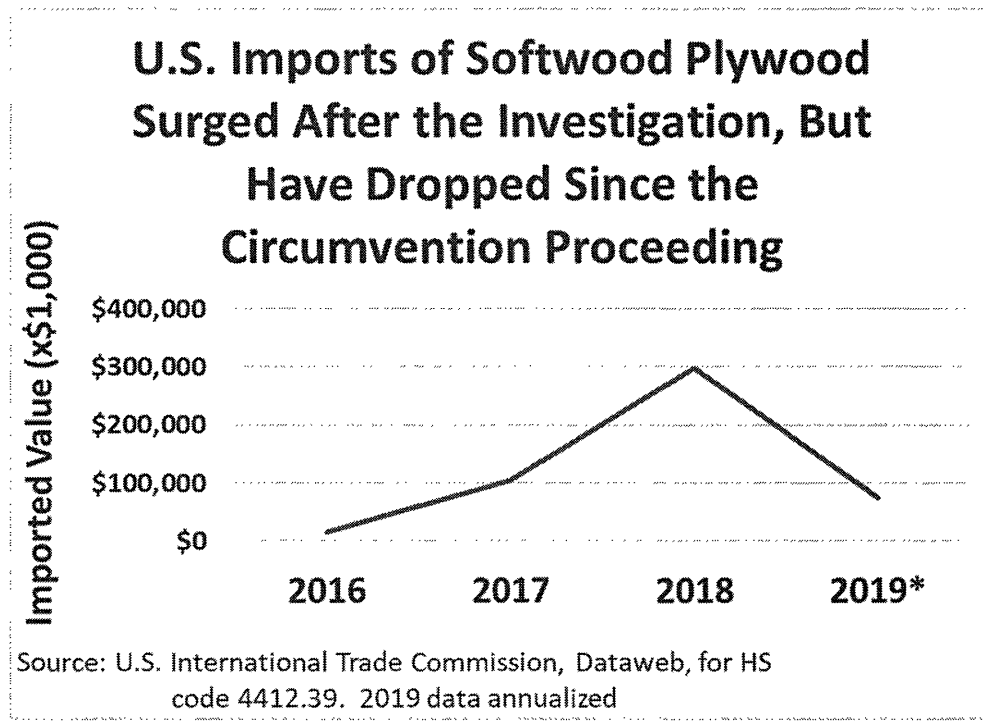
¹⁸ See *id.* Again, Petitioner notes that on January 17, 2020, the Department published notice of a covered merchandise referral and initiation of a scope inquiry regarding certain hardwood plywood products produced by Vietnam Finewood Company Limited from China-origin materials. See Covered Merchandise Referral Notice.

¹⁹ See Letter from Regina Wilson, Acting Dir., Enf't Ops. Division, Trade Remedy & Law Enf't Directorate, CBP Off. of Trade, to Counsel and Representatives of the above-referenced Entities, re: *Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7321* (Oct. 1, 2019), attached at **Exhibit 3**.

²⁰ See Nguyen Dieu Tu Uyen, *Vietnam Takes "Drastic Steps" on Fraudulent Exports to U.S.*, Bloomberg (Nov. 20, 2019), attached at **Exhibit 4**.

²¹ See *id.*; see also Nguyen Xuan Quynh, *Vietnam Orders Urgent Measures to Combat Trade Fraud*, Bloomberg (Jan. 6, 2020), attached at **Exhibit 5**.





The trends for Chinese exports of hardwood plywood to the United States and U.S. imports of Vietnamese hardwood plywood are essentially mirror images. In other words, as official U.S. imports of Chinese hardwood plywood have decreased, likely as a result of the discipline of the Orders, U.S. imports of hardwood plywood from Vietnam have experienced a massive increase, soaring from \$29,358,000 in imported value in 2016 to \$309,349,000 in imported value in 2019,²² an increase of approximately 950%.

The sudden massive surge in Vietnamese imports of plywood into the United States is inexplicable except by duty evasion. In its injury investigation for the underlying investigations, the Commission assessed information on non-subject countries, and identified Indonesia, Malaysia, Russia, and Japan as other large producers of plywood products besides the United States and China.²³ Specifically, in 2015, China was, by far, the largest producer, accounting for 72.3% of global production of plywood; the United States was the second largest producer, accounting for 5.9% of global production; and Indonesia, Malaysia, Russia, and Japan each accounted for less than 5% of global production.²⁴ Vietnam did not even make the list. The Commission also reviewed official export statistics for plywood and wood flooring products from

²² Import and Export Data, attached at **Exhibit 6**. Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

²³ *Hardwood Plywood from China*, Inv. Nos. 701-TA-565 and 731-TA-1341, USITC Pub. 4747 (Dec. 2017) (Final) at VII-15 (“USITC Pub. 4747”), excerpts attached at **Exhibit 7**. The Commission reviewed production data for plywood from the Food and Agriculture Organization. These data include not only hardwood plywood but also cover other wood products, such as structural plywood and multilayered wood flooring, and also provide only a rough approximation of major country production of hardwood plywood.

²⁴ *Id.*

2014 through 2016 to evaluate global exports by major source, and again, China was the clear leader and Vietnam was again not even identified.²⁵

This history suggests that the staggering increase in Vietnamese imports of hardwood plywood into the United States is being fueled by transshipped Chinese hardwood plywood. Tellingly, during this time, Chinese exports of hardwood plywood to Vietnam greatly increased.²⁶ The Vietnamese government itself suspects that the surge in exports of plywood products to the United States from Vietnam is the result of Chinese companies improperly seeking to avoid tariffs.²⁷ According to the Vietnam Timber and Forest Product Association, exports of plywood to the United States in 2018 increased by 2.7 times levels in 2017, to \$190 million.²⁸ And, specifically, according to Vietnam Customs, the country's exports of plywood to the United States in the first quarter of 2019 increased 95% year-on-year, to \$47 million.²⁹ In the same period, Chinese imports into Vietnam rose 37% to \$61 million, accounting for 84% of all plywood imports.³⁰

A number of notable importers appear to be bringing in significant quantities of hardwood plywood from Vietnam, including prior key U.S. importers of Chinese hardwood plywood. These U.S. importers include [

²⁵ *Id.* at VII-17. The Commission examined official export statistics under HTS subheadings 4412.10, 4412.31, 4412.32, 4412.39, 4412.94, and 4412. 99, which contain some out-of-scope merchandise, as reported by various national statistical authorities in the GTIS/GTA database, accessed August 4, 2017.

²⁶ Import and Export Data, attached at **Exhibit 6**.

²⁷ See Dat Nguyen, *Vietnam suspects China hand in plywood export surge*, VNExpress International (Sept. 4, 2019), attached at **Exhibit 8**.

²⁸ *See id.*

²⁹ *See id.*

³⁰ *See id.*

].³¹ [

].³²

As demonstrated above, since the initiation of the underlying investigations, there have been a number of blatant and concerted efforts to evade AD/CVD duties on Chinese hardwood plywood. Petitioner provides herein evidence of the latest scheme that Chinese producers and/exporters have developed. Specifically, the Coalition has obtained evidence demonstrating that Chinese producers are manufacturing the material components of hardwood plywood in China and shipping these components to Vietnam to be assembled into finished hardwood plywood before being imported into the United States for the express purpose of avoiding AD/CVD duties. In particular, Chinese producers/exporters are shipping the merchandise to Vietnam in two forms, either with 1) the face veneer, back veneer, and assembled core or with 2) the face veneer, back veneer, and individual core veneers for layup before assembly.³³

As further discussed below, Petitioner submits that based on the plain scope language, the assembly and any finishing occurring in Vietnam is insufficient to remove otherwise subject merchandise from coverage under the Orders. In the alternative, and to the extent that the Department does not find the merchandise covered by this request to be covered by the plain scope language, Petitioner submits that Chinese hardwood plywood is being completed or assembled in Vietnam before being imported into the United States. This plywood is, therefore, circumventing the Orders such that they should be included within the scope.

³¹ [] data, attached at **Exhibit 9**.

³² *Id.*

³³ Declaration of [] at 1, attached at **Exhibit 10**.

II. DESCRIPTION OF PRODUCT AND ITS USES

Hardwood and decorative plywood is a wood panel product made from gluing two or more layers of wood veneer to a core which may itself be composed of veneers or other type of wood material such as medium density fiberboard (“MDF”), particleboard, lumber, or oriented strand board (“OSB”).³⁴ Essentially, hardwood plywood is comprised of a core sandwiched between two veneers.³⁵ A “veneer” is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch.³⁶ The outer ply or face veneer is typically the identifying species for the hardwood plywood product and is the side of the product that will be visible in most uses.³⁷ A plywood substrate is commonly referred to as the core, blank, or platform.³⁸ The core of hardwood plywood consists of the layer or layers of material(s) that are situated between the face and back veneers.³⁹ The core may be composed of a number of materials, including but not limited to veneers of hardwood or softwood, particleboard, MDF, lumber, OSB, or a combination of two or more core types.⁴⁰ Veneer core “platforms” are included in the definition of subject merchandise.⁴¹ A veneer core platform is defined as two or more wood veneers that form the core of an otherwise completed hardwood plywood product (*i.e.*, a hardwood plywood product to which the outer (face and back) veneers

³⁴ USITC Pub. 4747 at 9, excerpts attached at **Exhibit 7**.

³⁵ Petitions for the Imposition of Antidumping and Countervailing Duties, *Certain Hardwood Plywood Products from the People's Republic Of China*, vol. I (Nov. 18, 2016) at 7 (“Petition, vol. I”), excerpts attached at **Exhibit 11**.

³⁶ *Id.*

³⁷ USITC Pub. 4747 at 9, excerpts attached at **Exhibit 7**.

³⁸ *Id.* at I-13.

³⁹ Petition, vol. I at 7, excerpts attached at **Exhibit 11**.

⁴⁰ *Id.*

⁴¹ *Id.*

have not yet been affixed).⁴² Hardwood plywood included within the definition of subject merchandise may be “unfinished” or “prefinished.”⁴³ An unfinished product has not had a surface coating applied to the face and/or back veneers to protect the face and/or back veneers from wear and tear.⁴⁴ Hardwood plywood is manufactured in a variety of thicknesses and dimensions.⁴⁵

Many hardwood species are used in hardwood plywood manufacturing including oak, birch, maple, poplar, cherry, and tropical varieties.⁴⁶ Hardwood plywood includes at least one face or back veneer that is a hardwood species, but may have a face or back veneer and/or other layers of veneer of softwood species.⁴⁷ Pursuant to the Department’s recent anticircumvention inquiry determination referenced above, certain plywood products with face and back veneers of radiata and/or agathis pine are also now included in the scope of the Orders.⁴⁸

Petitioner provides a general description of the manufacturing process for hardwood plywood. The production of hardwood plywood begins with the conditioning and debarking of logs of a size and quality suitable for cutting or slicing to make veneer.⁴⁹ Veneer quality logs, or peeler logs, are generally of higher quality and value than those used for other wood products, although the quality of veneer from any given log will vary.⁵⁰ Harvested logs, bolts, and flitches

⁴² *Id.* at 7.

⁴³ *Id.* at 8.

⁴⁴ *Id.*

⁴⁵ USITC Pub. 4747 at 9, excerpts attached at **Exhibit 7**.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Final Circ. Deter. Notice.

⁴⁹ USITC Pub. 4747 at I-14, excerpts attached at **Exhibit 7**.

⁵⁰ Petition, vol. I at 9, excerpts attached at **Exhibit 11**.

are kept moist while they are stored in a yard to prevent dry out and end checking.⁵¹ The heating of veneer logs in a vat or steam chamber temporarily softens wood, making it more pliable.⁵² This also smooths the surface and reduces the likelihood of knife checks. The logs are then sawn to the desired length and debarked.⁵³

Rotary-cut veneer is made by transferring the conditioned (moist and warm) log to a lathe charger that positions it mechanically for optimal slicing.⁵⁴ The charger holds the log as it is placed into the lathe that spins the log against a blade at very high speed.⁵⁵ This makes a continuous layer of thin veneer that is then cut to the desired length and width.⁵⁶ Alternatively, veneers may be produced by slicing or sawing.⁵⁷ Sliced or sawed veneers are thin sheets that are cut from conditioned lumber, flitches, or blocks of wood.⁵⁸ Sliced or sawed veneers are cut into variable lengths and widths depending upon the form and dimension of the wood's raw material.⁵⁹

Whether rotary-produced or sliced, veneer is cut to thicknesses ranging from as thin as 0.01 inch (0.25 mm) to greater than 0.25 inch (6.35 mm).⁶⁰ The sheets are loaded into dryers with forced hot air which gradually lowers the moisture content of the veneer to 6 to 12%.⁶¹ Veneer is

⁵¹ USITC Pub. 4747 at I-15, excerpts attached at **Exhibit 7**.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Petition, vol. I at 9, excerpts attached at **Exhibit 11**.

⁵⁸ USITC Pub. 4747 at I-15, excerpts attached at **Exhibit 7**.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

graded and sorted by the quality prior to use in hardwood plywood manufacturing.⁶² Face veneers may be produced at a separate facility or by a different company than the manufacturer of hardwood plywood.⁶³

U.S. producers generally employ a “one-step” process, which is a continuous system from the log to the finished product.⁶⁴ In a one-step process, face and back veneers are glued and pressed at the same time as the core veneers.⁶⁵ The other prevalent system is referred to as a “two-step” process.⁶⁶ The core is manufactured separately in the first step, after which it is patched and sanded.⁶⁷ In the second step, the face and back veneers are applied to the core using a press. Chinese producers more commonly use the two-step process.⁶⁸

Prior to pressing, the face and core veneers are dried, sorted for defects, repaired or patched, taped or stitched to make larger sheets from smaller pieces, and trimmed.⁶⁹ The veneers are stacked with their grain in alternating directions in order to provide strength and stability to the finished product.⁷⁰ Depending on the manufacturing process, a cold press may be used to fabricate

⁶² *Id.*

⁶³ Petition, vol. I at 10, excerpts attached at **Exhibit 11**.

⁶⁴ USITC Pub. 4747 at I-16, excerpts attached at **Exhibit 7**.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Petition, vol. I at 10, excerpts attached at **Exhibit 11**.

⁷⁰ *Id.*

the several plies of veneer together prior to being hot pressed to glue the veneers together.⁷¹ The thickness and number of plies depends on the product.⁷²

After pressing and trimming, panels are sanded and, in some cases, finished depending on the end use.⁷³ Finishing can involve some degree of texturing for a particular appearance, grooving, and/or staining or coloring.⁷⁴ The process will vary somewhat if a core of composite wood (*e.g.*, MDF or particleboard) or other material is used.⁷⁵

Hardwood plywood has a wide variety of uses, including but not limited to wall panels, kitchen cabinet components, seat backs, table and desk tops, drawer sides, furniture components, recreational vehicle and trailer components, floor underlayment, and as the raw material for certain engineered (*i.e.*, multilayered) wood flooring.⁷⁶ Hardwood plywood is intended for interior (*i.e.*, indoor) uses.⁷⁷

Again, the Coalition has learned that the main components of hardwood plywood, *i.e.*, the face veneers, back veneers, and core veneers for plywood, are being manufactured in China and then shipped to Vietnam to be assembled into finished plywood before being exported to the United States.⁷⁸ The components are being shipped two ways: 1) with the face veneer, back veneer, and assembled core or 2) with the face veneer, back veneer, and individual core veneers to be laid

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.* at 6.

⁷⁷ *Id.*

⁷⁸ Declaration of [] at 1, attached at **Exhibit 10**.

up and then assembled into plywood. Petitioner understands that the plywood ultimately imported into the United States from Vietnam otherwise meets the description of subject merchandise detailed above and is used for the same applications.⁷⁹ As the members of the Coalition are not the importers of the products covered in this request, the exact tariff classification of this merchandise is not reasonably available to Petitioner. However, Petitioner understands that these products are essentially identical to subject hardwood plywood from China⁸⁰ and thus likely enter under the same HTSUS numbers identified in the scope of the Orders. And, official import statistics indicate that imports of hardwood plywood from Vietnam are entering under same HTSUS numbers as subject hardwood plywood from China.⁸¹

III. THE DEPARTMENT SHOULD CONFIRM THE UNAMBIGUOUS LANGUAGE OF THE SCOPE

The plain scope language demonstrates that hardwood plywood products otherwise subject to the scope of the Orders are not removed from the coverage of the scope by virtue of minor processing or assembly in Vietnam. Petitioner requests that the Department confirm that where Chinese producers and/or exporters are shipping the main components of hardwood plywood that are manufactured in China, either 1) face veneers, back veneers, and an assembled core or 2) face veneers, back veneers, and individual core veneers, to Vietnam for assembly into finished hardwood plywood before being imported into the United States, such minor further processing does not remove the merchandise from the coverage of the Orders.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Import and Export Data, attached at **Exhibit 6**.

In determining whether a product is within the scope of an order, the Department will initially examine the language of the scope of the order at issue and the description of the product contained in the request for a scope ruling.⁸² Pursuant to its regulations, the Department will also take into account “{t}he descriptions of the merchandise contained in the petition, the initial investigation, and the determinations of the Secretary (including prior scope determinations) and the Commission.”⁸³ If the Department deems that these sources are not sufficient to decide the matter, the Department will consider the following five additional factors: 1) the physical characteristics of the product; 2) the expectations of the ultimate purchasers; 3) the ultimate use of the product; 4) the channels of trade in which the product is sold; and 5) the manner in which the product is advertised and displayed,⁸⁴ *i.e.*, the (k)(2) factors or the “Diversified Products” criteria.⁸⁵ In this case, the plain scope language is dispositive with respect to the merchandise at issue. Therefore, it is unnecessary for the Department to consider the additional factors in 19 C.F.R. § 351.225(k)(2).

A. The Plain Scope Language and the (k)(1) Factors Demonstrate That The Merchandise is Covered by the Scope of the Orders

As detailed above, the scope covers “hardwood and decorative plywood, and certain veneered panels.” 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 nonconiferous wood (hardwood) or bamboo.”⁸⁶

⁸² *Walgreen Co. of Deerfield, Ill. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁸³ 19 C.F.R. § 351.225(k)(1).

⁸⁴ *Id.* § 351.225(k)(2).

⁸⁵ *See Diversified Prods. Corp. v. United States*, 572 F.Supp. 883 (Ct. Int’l Trade 1983).

⁸⁶ As noted above, the scope of the Orders also covers certain plywood products with face and back veneers of radiata and/or agathis pine pursuant to the Department’s recent circumvention determination.

The scope also states that “the veneers, along with the core may be glued or otherwise bonded together,” and specifies that “the face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers.” The scope further confirms that all hardwood plywood is covered by the scope, “regardless of whether or not the face and/or back veneers are surface coated or covered.” Finally, the scope explicitly states that “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” and also that the scope covers hardwood 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 production process for hardwood plywood described above indicates that the process generally includes the following steps: 1) conditioning the logs; 2) sawing the logs; 3) debarking the logs; 4) peeling the veneers through the rotary-cut method or by slicing or sawing; 5) cutting the veneers into variable lengths and widths; 6) drying the veneers; 7) repairing or patching defects as necessary; 8) taping or stitching to make larger sheets from smaller pieces and trimming in some cases; 9) laying up the veneers, *i.e.*, stacking the veneers with their grain in alternating directions; 10) applying glue; 11) using a cold press to fabricate several plies of veneer together; 12) using a hot press to glue the veneers together; and 13) any final trimming, sanding, and finishing.

Reasonably available information indicates that Chinese producers are completing the manufacturing of hardwood plywood up to the eighth or ninth step described above and then shipping the completed face veneer, back veneer, and either an assembled core or individual core veneers to Vietnam for assembly and potential finishing before exportation to the United States.

Petitioner understands that the physical characteristics of the face veneers, back veneers, and assembled core or individual core veneers being shipped to Vietnam otherwise match the physical description of subject merchandise. In other words, if these components were assembled and finished in China and exported directly to the United States, there is no doubt that these products would be covered by the scope of the Orders. Chinese producers have simply shifted the final stages of the production process to Vietnam to avoid AD/CVD duties.

However, the scope language expressly states that minor processing steps do not remove subject merchandise from the coverage of the Orders, and the scope also covers hardwood plywood that is further processed in a third country. The Department also has reiterated that minor processing does not remove hardwood plywood from the scope of the Orders. Specifically, in the scope ruling discussed above, the Department found that “hardwood plywood that has been cut-to-size, painted, laminated, stained, ultra violet light finished, grooved, and/or covered in paper, regardless of where such processing took place” is covered by the scope.⁸⁷ The Department further emphasized that “the plain language of the scope provides an exemplary list of surface coatings and minor processes that do not remove otherwise subject merchandise from the scope,” and also that “the plain language of the scope also makes clear that this list is not all-inclusive and contemplates that there are other surface coatings and other forms of minor processing not expressly enumerated in the scope that would also not remove otherwise subject merchandise from the scope.”⁸⁸

Petitioner submits that the processing that is occurring in Vietnam is minor and insufficient to remove the merchandise from the scope of the Orders. The vast majority of the production

⁸⁷ See Petitioner-Masterbrand 2018 Scope Ruling at 22-23.

⁸⁸ See *id.* at 24-25.

process occurs in China, including the conditioning, sawing, and debarking of the logs, as well as the peeling of the veneers and subsequent cutting and drying of the veneers and to the extent necessary, repairing or patching defects and/or taping or stitching to make larger sheets. Where an assembled core is shipped to Vietnam with face and back veneers, the layup of the veneers also occurs in China. The sole steps that appear to be occurring in Vietnam in this scenario are the application of glue, fabrication of several plies of veneer together through a cold press, gluing the veneers together through a hot press, and depending on the particular product, any finishing processes, as necessary. Where the core is shipped to Vietnam as individual core veneers, the layup of the veneers would also occur in Vietnam. Petitioner submits that the processing that occurs in Vietnam is demonstrably minor in either scenario, especially when viewed in context of the complex, multi-step production process for hardwood plywood generally. In particular, the production process up through the peeling and production of the veneers entails the most significant and complex part of the production process.⁸⁹

Unsurprisingly, the raw material costs of hardwood plywood account for the overwhelming majority of the cost of production.⁹⁰ Specifically, the Commission found in the underlying investigations that the percentage of cost of goods sold (“COGS”) accounted for by raw materials ranged from 78.8% to 79.4% from 2014 through 2016.⁹¹ The Commission also observed, in turn, that the major raw material costs for hardwood plywood are the hardwood veneer and other plywood used in its production,⁹² *i.e.*, the components that are produced in China and shipped to

⁸⁹ Declaration of [] at 2, attached at **Exhibit 10**.

⁹⁰ USITC Pub. 4747 at V-1, excerpts attached at **Exhibit 7**.

⁹¹ *Id.*

⁹² *Id.*

Vietnam for assembly. Petitioner also provides sample cost breakdowns in section V.D.5 of this submission that further demonstrates that the materials, and specifically the primary materials, *i.e.*, the face veneer, back veneer, and core (regardless of whether assembled or individual core veneers) account for the vast majority of the total cost of production for hardwood plywood.

In short, the assembly and any finishing that occurs in Vietnam can be completed relatively easily and with little cost as compared to the production steps that occur in China. Petitioner submits that this demonstrates that the processing that occurs in Vietnam is minor and constitutes the further processing contemplated in the scope language that does not remove otherwise subject hardwood plywood from the coverage of the Orders. Indeed, the scope language explicitly states that the scope covers hardwood plywood that has been further processed in a third country including “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 assembly and any finishing that occurs in Vietnam would certainly not remove hardwood plywood from the scope if performed in China. If the assembly and finishing occurred in China and the merchandise was exported directly to the United States, there is no doubt that these products would be covered by the scope. Accordingly, based on the plain scope language, Petitioner requests that the Department confirm that where face and back veneers and a core (either assembled or as individual core veneers) manufactured in China are simply assembled and finished in Vietnam, such merchandise is covered by the scope of the Orders.

Separately, Petitioner also notes the scope of the Orders cover hardwood and decorative plywood, and **certain veneered panels**. Notably, in the underlying Petition, the Coalition specifically noted that “{v}eneer core ‘platforms’ are included in the definition of subject merchandise. A veneer core platform is defined as two or more wood veneers that form the core

of an otherwise completed hardwood plywood product (*i.e.*, a hardwood plywood product to which the outer (face and back) veneers have not yet been affixed.”⁹³ The scope language also clarifies that the face and back veneers are the outermost veneer of wood on either side of the core, regardless of whether there are additional surface coatings or covers. Furthermore, while the scope language provides that the veneers, along with the core may be glued or otherwise bonded together, notably, the scope does not specify this as a requirement. Based on the above, Petitioner submits that the components of hardwood plywood that are being shipped to Vietnam for assembly themselves already meet the definition of subject merchandise, particularly in the case where a face veneer, back veneer, and assembled core are being shipped. And, since the minor processing occurring in Vietnam is insufficient to remove the subject hardwood plywood from the coverage of the scope as detailed above, this further demonstrates that the products at issue are plainly covered by the scope of the Orders.

B. While Not Necessary, a Substantial Transformation Analysis Would Also Demonstrate that These Products Are Covered by the Scope

Petitioner submits that because the scope language here expressly includes third-country processing language, there is no need for the Department to resort to a substantial transformation analysis. The Department generally conducts a substantial transformation analysis when determining the country-of-origin of a product to determine whether processing in the third country substantially transforms the product.⁹⁴ The Department may examine a number of factors, and the

⁹³ Petition, vol. I at 7, excerpts attached at **Exhibit 11**.

⁹⁴ See, e.g., Memorandum from Alex Wood, International Trade Compliance Analyst, Off. II, Antidumping and Countervailing Duty Operations, to James Maeder, Deputy Asst. Sec’y for Antidumping and Countervailing Duty Operations, re: *Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Scope Ruling on WorldPac Inc.’s Wheel Hub Assemblies* (Sept. 11, 2019) at 4-5 (“WorldPac German Wheel Hub Scope Ruling”), attached at **Exhibit 12**; Memorandum from Fred Baker, Analyst, AD/CVD Operations, Office VI, to James Maeder, Deputy Asst. Sec’y for Antidumping and Countervailing

weight of any one factor can vary from case to case depending on the particular circumstances unique to the products at issue.⁹⁵ The agency normally considers the following four factors when conducting a substantial transformation analysis:

- 1) whether the processed downstream product falls into a different class or kind of product when compared to the upstream product;
- 2) whether the essential component of the merchandise is substantially transformed in the country of exportation;
- 3) the extent of processing; and
- 4) the value added to the product.⁹⁶

The substantial transformation analysis “asks whether, as a result of the manufacturing or processing, the product loses its identity and is transformed into a new product having a new name, character and use” and whether “{t}hrough that transformation, the new article becomes a product of the country in which it was processed or manufactured.”⁹⁷

Again, here, the scope language expressly covers subject merchandise that has been further processed in a third country and the Department does not need to conduct a substantial transformation analysis. Nonetheless, an assessment of the factors that the agency generally considers demonstrates that the products at issue here are not substantially transformed into a new product that is no longer subject to the scope of the Orders.

Duty Operations, re: *Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Aluminum Jalousie Shutters* (Oct. 15, 2019) at 16-20 (“Air Master Scope Ruling”), attached at **Exhibit 13**; *see also Bell Supply Co. v. United States*, 888 F.3d 1222 (Fed. Cir. 2018).

⁹⁵ See WorldPac German Wheel Hub Scope Ruling at 4-5, attached at **Exhibit 12**; Air Master Scope Ruling at 16-20, attached at **Exhibit 13**.

⁹⁶ See WorldPac German Wheel Hub Scope Ruling at 4-5, attached at **Exhibit 12**; Air Master Scope Ruling at 16-20, attached at **Exhibit 13**.

⁹⁷ See WorldPac German Wheel Hub Scope Ruling at 4-5, attached at **Exhibit 12**; Air Master Scope Ruling at 16-20, attached at **Exhibit 13**.

The hardwood plywood products at issue that are imported from Vietnam do not fall into a different class or kind of product as the upstream product. Again, the main components of hardwood plywood, *i.e.*, the face and back veneers and core, are being produced in China and shipped to Vietnam simply to be assembled into finished plywood before importation into the United States. The merchandise from China is dedicated for assembly into hardwood plywood and has no other purpose, which the Department has found significant in evaluating this factor.⁹⁸ Moreover, official export data indicate that the hardwood plywood components are being shipped to Vietnam under the same HTS numbers that subject hardwood plywood from China is shipped under when exported directly to the United States.⁹⁹

For the same reason, the essential component of the merchandise, *i.e.*, the face and back veneers and core, are not substantially transformed in Vietnam. For this criterion, the Department considers whether processing in the exporting country changes the important qualities or use of the component and the Department has focused on the significance of the changes in physical qualities or use of the component that occurred as a result of the further processing.¹⁰⁰ Again, the vast majority and most significant part of the production of hardwood plywood, *i.e.*, the production of the veneers, takes place in China. The face and back veneers and core are dedicated for assembly into hardwood plywood and are not transformed in Vietnam. The components are simply glued and assembled together, and potentially trimmed, sanded, or finished.

And, as indicated above, the extent of processing and the value added in Vietnam is overwhelmingly minor, especially when viewed against the complex, multi-step production

⁹⁸ See Air Master Scope Ruling at 17, attached at **Exhibit 13**.

⁹⁹ Import and Export Data, attached at **Exhibit 6**.

¹⁰⁰ See Air Master Scope Ruling at 17-18, attached at **Exhibit 13**.

process for hardwood plywood overall. The Department has previously found processes such as cutting, stamping, punching, bending, and assembling to be relatively not complex or extensive.¹⁰¹ Furthermore, where the Department found the manufacturing process in the country subject to the order at issue to be more technologically complex and involve more advanced equipment than the further processing operations in the third country, the agency found the apparent value added by the processing operations to not rise to a level of substantial transformation, even without quantifying the value added by the processing.¹⁰² Here, the division of the production steps that occur in China and Vietnam indicate that the manufacturing processes that occur in China, to produce the wooden veneers from logs, is far more technologically complex than the assembly and finishing in Vietnam, and would require more advanced equipment.¹⁰³ Accordingly, consideration of these criteria supports the conclusion that the products at issue are not substantially transformed in Vietnam, and thus that they remain covered by the scope of the Orders.

C. Conclusion

As demonstrated above, the plain scope language, as well as the factors listed in 19 C.F.R. § 351.225(k)(1), specifically the description of the merchandise contained in the petition and initial investigations and the Department's prior scope determinations, demonstrates that hardwood plywood that is assembled in Vietnam from face, back, and core veneers produced in China are covered by the scope of the Orders. As such, Petitioner requests that the Department issue a scope ruling confirming that the products at issue are covered by the scope of the Orders.

¹⁰¹ See *id.* at 18-19.

¹⁰² See *id.* at 19.

¹⁰³ Declaration of [] at 2, attached at **Exhibit 10**.

As the scope language is dispositive, there is no need for the Department to resort to a *Diversified Products* analysis pursuant to 19 C.F.R. § 351.225(k)(2).

IV. IN THE ALTERNATIVE, THE DEPARTMENT SHOULD FIND THAT THE MERCHANDISE AT ISSUE IS CIRCUMVENTING THE ORDERS

As detailed above, Petitioner submits that based on the plain scope language, the Department should confirm that the merchandise at issue is within the scope of the Orders. To the extent that the Department finds that the Chinese plywood that undergoes minor processing in Vietnam is not covered by the scope, Petitioner submits that the Department should find that these products constitute merchandise completed or assembled in a third country that is circumventing, and should be included within, the scope of the Orders pursuant to 19 U.S.C. § 1677j(b) and 19 C.F.R. § 351.225(h).

Evidence reasonably available to Petitioner indicates that Chinese producers and/or exporters of hardwood plywood products subject to the scope of the Orders are shipping the main components of plywood to Vietnam to be assembled and completed before being imported into the United States as Vietnam-origin for the express purpose of avoiding AD/CVD duties. Specifically, the evidence indicates that Chinese producers/exporters are producing veneers for the face, back, and core of plywood in China, and then shipping the face and back veneers and either an assembled core or individual core veneers to Vietnam to merely be assembled into plywood before being imported into the United States.

A. The Department Has Statutory Authority to Include Within the Scope of an AD/CVD Order Merchandise Completed or Assembled in Another Foreign Country

Congress has provided the Department with the necessary tools to combat the evasion of AD/CVD duties.¹⁰⁴ The Act expressly contemplates that it may be necessary to include within the scope of an AD/CVD order merchandise that has been completed or assembled in another foreign country before being imported into the United States. Pursuant to section 781(b)(1) of the Act, in determining whether merchandise completed or assembled in other foreign countries is circumventing existing AD/CVD orders, the Department must consider whether 1) the merchandise imported into the United States is of the same class or kind as merchandise produced in the country that is subject to the existing orders; 2) before importation into the United States, such merchandise is completed or assembled in another foreign country from merchandise which is a) subject to such orders or b) produced in the country with respect to which such orders apply; 3) the process of assembly or completion in the foreign country is minor or insignificant; 4) the value of the merchandise produced in the country to which the orders apply is a significant portion of the total value of the merchandise exported to the United States; and 5) the Department determines that action is appropriate to prevent evasion of such orders.¹⁰⁵

In determining whether the process of assembly or completion is minor or insignificant, the Department must take into account: 1) the level of investment in the foreign country; 2) the level of research and development in the foreign country; 3) the nature of the production process in the foreign country; 4) the extent of production facilities in the foreign country, and; 5) whether

¹⁰⁴ See *Deacero S.A. de C.V. v. United States*, 817 F.3d 1332, 1337 (Fed. Cir. 2016).

¹⁰⁵ See 19 U.S.C. §1677j(b)(1).

the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.¹⁰⁶

The Act also directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country in the order at issue such as the pattern of trade, including sourcing patterns; whether the manufacturer or exporter of the merchandise that is subject to the orders at issue or produced in the country with respect to which such orders apply is affiliated with the person who uses that merchandise to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States; and whether imports into the foreign country of the merchandise that is subject to the orders at issue or produced in the country with respect to which such orders apply have increased after initiation of the underlying investigation which resulted in the issuance of the orders at issue.¹⁰⁷ An assessment of these statutory factors demonstrates that the plywood assembled in Vietnam using veneers produced in China is circumventing, and thus should be included within the scope of, the Orders.

B. The Merchandise Imported into the United States is of the Same Class or Kind as Merchandise Produced in China that is Subject to the AD/CVD Orders on Hardwood Plywood from China

Pursuant to section 781(b)(1)(A)(i) and (iii) of the Act, the hardwood plywood products being imported into the United States from Vietnam at issue are of the same class or kind as the merchandise subject to the Orders imported from China. As discussed above, the material

¹⁰⁶ *Id.* §1677j(b)(2). Although the Department must consider all five factors in its analysis, no single factor is dispositive. *See* 19 C.F.R. § 351.225(h); *U.K. Carbon and Graphite Co. v. United States*, 931 F. Supp. 2d 1322, 1335 (Ct. Int'l Trade 2013) (“The Court notes that the five factors {in 19 U.S.C. § 1677j(b)(2)(A)-(E)} are to be separately taken into consideration, as appropriate, and their totality weighed.”).

¹⁰⁷ *See* 19 U.S.C. §1677j(b)(3).

components of hardwood plywood are being manufactured in China and then shipped to Vietnam for final assembly for the express purpose of avoiding AD/CVD duties. But for the desire to circumvent the Orders, Petitioner submits that the final assembly would take place in China. If the hardwood plywood products being imported from Vietnam were imported directly from China, they would unequivocally be covered by the scope of the Orders. As such, the inquiry merchandise is of the same class or kind as, and in fact identical to, the merchandise subject to the Orders. Official import data indicates that shipments of hardwood plywood from Vietnam are entering the United States under the same HTSUS subheadings as subject hardwood plywood from China.¹⁰⁸ [] data also indicates that imports of merchandise from Vietnam are entering the United States identified as [

].¹⁰⁹

C. The Merchandise Imported into the United States is Completed or Assembled in Vietnam from Merchandise Produced in China

Pursuant to section 781(b)(1)(B)(ii) of the Act, evidence reasonably available to Petitioner demonstrates that Chinese hardwood plywood is being assembled in Vietnam before being imported into the United States as Vietnam-origin for the express purpose of avoiding AD/CVD duties. As detailed above, the production process for hardwood plywood generally includes the following steps: 1) conditioning the logs; 2) sawing the logs; 3) debarking the logs; 4) peeling the veneers through the rotary-cut method or by slicing or sawing; 5) cutting the veneers into variable lengths and widths; 6) drying the veneers; 7) repairing or patching defects as necessary; 8) taping or stitching to make larger sheets from smaller pieces and trimming in some cases; 9) laying up

¹⁰⁸ Import and Export Data, attached at **Exhibit 6**.

¹⁰⁹ [] data, attached at **Exhibit 9**.

the veneers, *i.e.*, stacking the veneers with their grain in alternating directions 10) applying glue; 11) using a cold press to fabricate several plies of veneer together; 12) using a hot press to glue the veneers together; and 13) any final trimming, sanding, and finishing.

Petitioner understands that Chinese producers are completing the manufacturing of hardwood plywood up to the eighth or ninth steps described above and then sending the completed face veneer, back veneer, and either an assembled core or individual core veneers to Vietnam to be assembled and finished before being exported to the United States to avoid AD/CVD duties. The import trends also provide support for this conclusion. As demonstrated above, U.S. imports of hardwood plywood from Vietnam have experienced a massive increase, increasing approximately 950% in imported value from 2016 to 2019.¹¹⁰ At the same time, Chinese exports of hardwood plywood to the United States have dropped significantly and instead Chinese exports of hardwood plywood to Vietnam have increased.¹¹¹ This suggests that Chinese hardwood plywood is entering the United States after assembly or completion in Vietnam.

Petitioner has also obtained information indicating that some of the hardwood plywood products imported from Vietnam look identical to Chinese hybrid poplar core harvested at Chinese plantations.¹¹² The members of the Coalition understand based on industry knowledge that Vietnam is void of substantive poplar plantations,¹¹³ however, and this further suggests that Chinese hardwood plywood is merely being assembled and completed in Vietnam. Accordingly, this factor supports a finding of circumvention.

¹¹⁰ Import and Export Data, attached at **Exhibit 6**. Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

¹¹¹ *Id.*

¹¹² Declaration of [] at 1-2, attached at **Exhibit 10**.

¹¹³ *Id.* at 2.

D. The Process of Assembly or Completion in Vietnam is Minor and Insignificant

For evaluating whether the process of assembly or completion is minor or insignificant, the Act directs the Department to consider the following factors: 1) the level of investment in the foreign country; 2) the level of research and development in the foreign country; 3) the nature of the production process in the foreign country; 4) the extent of production facilities in the foreign country, and; 5) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.¹¹⁴ An analysis of these five factors demonstrates that processing that takes place in Vietnam is minor and insignificant. Subject Chinese producers and exporters have developed a scheme of producing all of the material components of hardwood plywood in China, *i.e.*, an overwhelming majority of the value, and simply moving the final stages of the production process to a third country, Vietnam, to avoid combined AD/CVD duties of more than 200%. Accordingly, the processing that takes place in Vietnam must be viewed relative to the AD/CVD duties avoided.

1. The Level of Investment in Vietnam is Minimal

Because the circumvention scheme here involves assembling face and back veneers and a core (assembled or individual core veneers) that were manufactured entirely in China, and involves only minor processing, there is likely minimal investment in Vietnam. In contrast, the investment required for producing the wooden veneers that are shipped to Vietnam for assembly, starting from the logs, must be significant.

¹¹⁴ 19 U.S.C. § 1677j(b)(2). Although the Department must consider all five factors in its analysis, no single factor is dispositive. *See* 19 C.F.R. § 351.225(h); *U.K. Carbon and Graphite*, 931 F. Supp. 2d at 1335 (“The Court notes that the five factors {in 19 U.S.C. § 1677j(b)(2)(A)-(E)} are to be separately taken into consideration, as appropriate, and their totality weighed.”).

Again, the production process for hardwood plywood generally includes the following steps: 1) conditioning the logs; 2) sawing the logs; 3) debarking the logs; 4) peeling the veneers; 5) cutting the veneers; 6) drying the veneers; 7) repairing or patching defects as necessary; 8) taping or stitching to make larger sheets and trimming in some cases; 9) laying up the veneers; 10) applying glue; 11) using a cold press to fabricate several plies of veneer together; 12) using a hot press to glue the veneers together; and 13) any final trimming, sanding, and finishing. Petitioner provides an illustrative sample of the process for manufacturing plywood for reference.¹¹⁵

The vast majority of the production process, up through the production of the wooden veneers, is occurring in China. The equipment that may be used for the assembly and finishing in Vietnam appears to include a gluing machine, a cold press to fabricate several plies of veneer together, a hot press to glue the veneers together, as well as any equipment for minor finishing processes, such as trimming and sanding.¹¹⁶ In contrast, Petitioner submits that based on the description of the production process, the steps occurring in China would require more complex equipment as well as much more plant space,¹¹⁷ for at least the following processes: storing the logs, conditioning the logs; debarking the logs; cutting the logs; peeling the veneers; and drying the veneers. Unsurprisingly, as discussed in section IV.D.5 of this submission, the production of the face, back, and core veneers accounts for the vast majority of the cost of production for plywood. Petitioner submits that based on the relative production steps that are occurring in Vietnam and China, the relative investment in Vietnam for the assembly operations at issue is likely minimal.

¹¹⁵ Plywood: The Production Process, Kitronik, attached at **Exhibit 14**.

¹¹⁶ Declaration of [] at 3, attached at **Exhibit 10**.

¹¹⁷ *Id.* at 2.

When taking into consideration the substantial AD/CVD duties avoided by engaging in this circumvention scheme, any minimal investments that may have been made to set up the assembly process in Vietnam becomes even more insignificant. Accordingly, this factor supports an affirmative circumvention determination.

2. The Level of Research and Development in Vietnam is Minimal

In the same manner, while the research and development (“R&D”) required for setting up a production facility for hardwood plywood in the first place in China would be substantial, the level of R&D required, if any, for merely setting up an assembly shop in Vietnam would be very minimal. Indeed, here, as the evidence indicates that Chinese producers have shifted the very end of the production process to Vietnam solely to avoid AD/CVD duties, Petitioner submits that there is likely no R&D occurring in Vietnam. Rather, any necessary R&D is likely being transferred to the companies in Vietnam from the Chinese producers of hardwood plywood.

Again, the production steps occurring in China entail the most significant and complex stages of the manufacturing process. And, as detailed in section IV.D.5 of this submission, the production of the face, back, and core veneers accounts for the vast majority of the cost of production. Petitioner submits that based on the production process for hardwood plywood, the steps occurring in Vietnam appear to be much less technologically complex compared to the steps occurring in China. As such, there is likely little, if any, R&D necessary for the processing occurring in Vietnam.

3. The Production Process in Vietnam Involves Minimal Additional Processing

The production process in Vietnam involves very minimal processing compared to the many production steps that occur in China to produce the face and back veneers and core that are assembled and completed in Vietnam. Rather, the production steps that take place in China entail

the majority and most significant portion of the production process.¹¹⁸ The vast majority of the production activities, investment, R&D necessary to produce hardwood plywood would thus be associated with the production of the wooden veneers starting from the logs.

Pursuant to the circumvention scheme here, the members of the Coalition understand that the production process up through the completion of the veneers occurs in China. In other words, the Chinese producers are sourcing and storing the logs, conditioning, cutting, and debarking the logs, and then peeling the veneers, after which the veneers are cut, dried, repaired as necessary, and in some cases taped or stitched to make larger sheets.¹¹⁹ In contrast, all that is occurring in Vietnam is the layup of the veneers as necessary and the application of glue and assembly of the veneers using a cold press and hot press, as well as any final trimming, sanding, and/or finishing.¹²⁰ These final steps of the production process involve minor processing and account for a very small proportion of the cost of production, as detailed in section IV.D.5 of this submission. Petitioner also submits that the processing in Vietnam would also likely require relatively limited equipment and few workers, compared to the substantial production activities that take place in China.¹²¹

4. The Production Facilities in Vietnam are Limited

As the companies in Vietnam are simply assembling into finished plywood the face and back veneers with the assembled core, or the individual core veneers, that they receive completely manufactured from Chinese producers, the extent of the facilities in Vietnam are necessarily limited.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* at 3.

Prior to the imposition of the AD/CVD orders on hardwood plywood from China, there were very little imports of hardwood plywood into the United States from Vietnam.¹²² Following the issuance of the orders, however, imports of hardwood plywood from Vietnam experienced a massive increase, increasing approximately 950% in imported value from 2016 to 2019.¹²³ The Coalition believes, however, that there has not been a commensurate increase in facilities in Vietnam for the legitimate production of hardwood plywood.¹²⁴ This further demonstrates that the increase in Vietnamese imports of hardwood plywood are the result of transshipment or circumvention, such as the scheme detailed herein.

To the extent that these companies also have legitimate production operations in Vietnam, Petitioner does not argue that such legitimately produced products should be brought within the scope of the Orders. The focus of this inquiry is on those products that are simply being assembled or completed in Vietnam in a deliberate attempt to avoid duties. Accordingly, the Department's analysis should focus on the extent of the production facilities used for assembly (and layup as necessary) and completion of Chinese hardwood plywood for comparison with the production facilities in China for the manufacturing of the wooden veneers starting from logs.

5. The Value of the Processing in Vietnam Represents a Minority of the Value of the Merchandise Imported into the United States

As detailed above, the production steps that take place in China entail the majority and most significant portion of the production process for the hardwood plywood products at issue imported from Vietnam. Specifically, the manufacturing of the veneers for the face, back, and core

¹²² Import and Export Data, attached at **Exhibit 6**.

¹²³ *Id.* Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

¹²⁴ Declaration of [] at 2, attached at **Exhibit 10**.

of plywood starting from the logs account for the vast majority of the production of hardwood plywood.¹²⁵ And again, the raw material costs of hardwood plywood account for the overwhelming majority of the cost of production.¹²⁶ Specifically, the Commission found in the underlying investigations that the percentage of COGS accounted for by raw materials alone ranged from 78.8% to 79.4% from 2014 through 2016, and moreover that the major raw material costs for hardwood plywood are the hardwood veneer and other plywood used in its production.¹²⁷ This means that most of the production costs for hardwood plywood, *i.e.*, the raw materials for the wooden veneers, is all accounted for in China. This demonstrates that the value of processing in Vietnam represents a minority of the value of the merchandise imported into the United States.

Petitioner also provides an example of a breakdown of U.S. manufacturers' actual production costs [

]. The cost of materials, of which the raw materials for producing the veneers would be most substantial, plainly account for the vast majority of the cost of production. The remainder of the costs, including the conversion labor and overhead, account for a very small proportion of the total cost of production and the cost of assembling the completed veneers, in particular, would account for an even smaller proportion.

¹²⁵ *Id.*

¹²⁶ USITC Pub. 4747 at V-1, excerpts attached at **Exhibit 7**.

¹²⁷ *Id.*

Petitioner also provides an estimated cost breakdown for hardwood plywood imported from Vietnam that has been assembled with Chinese face and back veneers and a Chinese core.¹²⁸

Estimated Cost Breakdown for [] Panel Manufactured with Chinese Materials	Cost FOB Vietnam = \$[] / MSF
Chinese Materials (Chinese Birch Face and Back Veneers, Chinese Core, and Other Costs) and Labor	\$[] / MSF = [] of Total Cost
Vietnamese Materials (Other Costs) and Labor (Layup, Finishing, and Packaging):	\$[] / MSF = [] of Total Cost
* Other Costs include Glue, Waste, Manufacturing Materials which may be incurred in China and/or Vietnam. A range is being provided for the estimated costs incurred in China and Vietnam, respectively, to account for Other Costs.	

The above analysis demonstrates that the cost of the primary materials, *i.e.*, the material and labor costs incurred in China, accounts for the majority of the total estimated cost. Notably, the sample cost breakdown indicates that the total cost of the Chinese materials and labor would account for [] of the total FOB Vietnam cost. In contrast, the processing in Vietnam would amount to [] of the total cost. This analysis demonstrates that the production costs incurred in China (materials and labor), again of which the most significant portion would be the materials for producing the veneers, accounts for the vast majority of the production costs for hardwood plywood, and in turn that the assembly of such materials in Vietnam would account for a very small proportion of the value of the merchandise imported in the United States.

¹²⁸ Declaration of [] at 3, attached at **Exhibit 10**.

In evaluating this factor, the Department has emphasized in recent circumvention proceedings that Congress has redirected the agency's focus away from a rigid numerical calculation towards a more qualitative focus on the nature of the production process.¹²⁹ Indeed in *CORE from China*, the Department noted that a qualitative analysis, which indicated that the primary direct material inputs (*i.e.*, hot-rolled steel or cold-rolled steel) used by producers in the third country to produce the merchandise subject to the anti-circumvention inquiry (*i.e.*, corrosion-resistant steel) was manufactured and supplied by producers in the country subject to an existing AD/CVD order on corrosion-resistant steel (China), and that significant costs in addition to the direct material inputs were not incurred, would be sufficient to determine that the value of processing in the third country constitutes a small portion of the value of the merchandise exported to the United States.¹³⁰ Similarly, in *DSB from China*, with respect to diamond sawblades that were being assembled or completed in a third country with Chinese cores and Chinese segments, *i.e.*, where all the direct material inputs were of Chinese origin, and the processing performed in the third country involved only laser-welding and finishing, which the Department found to be less complex, intensive, or multi-step processes than the production of the cores and segments, the

¹²⁹ See Preliminary Decision Memorandum accompanying *Certain Corrosion-Resistant Steel Products From the People's Republic of China*, 82 Fed. Reg. 58,170 (Dep't Commerce Dec. 11, 2017) (affirm. prelim. deter. of anti-circ. inquiries on the antidumping duty and countervailing duty orders) at 21 ("CORE Circumvention Prelim Decision Memo"); see also Preliminary Decision Memorandum accompanying *Diamond Sawblades and Parts Thereof From the People's Republic of China*, 83 Fed. Reg. 57,425 (Dep't Commerce Nov. 15, 2018) (prelim. affirm. deter. of circ.) at 11 ("DSB Circumvention Prelim Decision Memo").

¹³⁰ See CORE Circumvention Prelim Decision Memo at 22. The Department had also obtained the information necessary to evaluate the value added by the processing in the third country and concluded that the quantitative finding supported the Department's qualitative finding. See *id.*

Department found that a qualitative analysis supported its finding that the proportion of the processing value added in the third country is small.¹³¹

Like these prior proceedings, here, the primary direct material inputs, *i.e.*, the face veneer, back veneer, and either an assembled core or individual core veneers, that are assembled in Vietnam into finished hardwood plywood were supplied by Chinese producers and exporters subject to the Orders. Accordingly, a qualitative analysis itself would also be sufficient here to conclude that the value of processing in Vietnam represents a small proportion of the value of the merchandise imported to the United States.

E. The Value of the Merchandise Produced in China Comprises the Vast Majority of the Total Value of the Merchandise Exported to the United States

As discussed above, the value of the processing in Vietnam represents a minority of the value of the merchandise imported into the United States. In contrast, the overwhelming majority of the production and costs are accounted for by the raw materials and the wooden veneers and core that are produced in China and shipped to Vietnam for assembly. This demonstrates that the value of the merchandise produced in China, *i.e.*, the face veneer, back veneer, and core (assembled or individual core veneers) would account for a significant portion of the total value of the merchandise ultimately exported to the United States.

Again, the sample cost breakdowns for a standard hardwood plywood product provided above clearly demonstrate that the material costs, and specifically, the cost of the face and back veneers and core comprise the bulk of the total cost of production. [

¹³¹ See DSB Circumvention Prelim Decision Memo at 11. There was also information on the record regarding the cost of production of diamond sawblades manufactured in the third country and the value of diamond sawblades sold to the United States and the Department also calculated the value of processing performed in the third country to preliminarily find that the value of processing performed in the third country as a proportion of the value of the merchandise imported into the United States is small for the products at issue in the inquiry. See *id.* at 13.

]. The estimated cost breakdown for plywood assembled in Vietnam also indicates that the total cost of the Chinese materials and labor would account for [] of the total FOB Vietnam cost and that the processing in Vietnam would amount to [] of the total cost. This analysis demonstrates that the value of the merchandise produced in China comprises the vast majority of the total value of the merchandise exported to the United States.

F. The Department Should Include Hardwood Plywood Assembled in Vietnam Using Chinese Face and Back Veneers and Cores in the Scope of the Orders to Prevent Evasion

Given the facts and evidence presented above, there is a reasonable basis to conclude that Chinese hardwood plywood products subject to the scope of the Orders are being completed or assembled in Vietnam within the meaning of 19 U.S.C. § 1677j(b) such that they should be covered by the scope of the AD/CVD orders on hardwood plywood products from China. Chinese producers and exporters have developed a circumvention scheme that involves moving the very end of the production process for hardwood plywood, which entails very minor processing, to a third country for the express purpose of avoiding AD/CVD duties.

It is imperative that the Department confirm that the mere assembly in a third country of face and back veneers and cores (whether assembled or individual core veneers) that were manufactured in China will not take the finished product outside the scope of the Orders. Petitioner submits that not providing this clarification will permit this and other circumvention efforts to continue unchecked. An affirmative determination here is critical to put an end to these blatant attempts to avoid paying the requisite AD/CVD duties on hardwood plywood from China and to provide the domestic industry with the full extent of trade relief it deserves. Indeed, the domestic industry is continuing to be injured despite the Orders due to the rampant circumvention and

evasion efforts of Chinese producers and exporters. [

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G. Additional Factors Considered By the Department

An assessment of the additional statutory factors that the Department considers in determining whether to include merchandise assembled or completed in a third country within the scope of existing orders further supports an affirmative determination of circumvention.

1. The Pattern of Trade Demonstrates Circumvention of the AD/CVD Orders on Hardwood Plywood from China

The incentive for evasion is high, with combined AD/CVD rates of more than 200%. Again, the import trends paint a clear picture of the evasion taking place. Specifically, since the underlying investigations and imposition of the Orders, Chinese exports of hardwood plywood to the United States have decreased substantially.¹³² While U.S. imports of softwood plywood surged after the investigations, they have dropped since the circumvention inquiry covering certain plywood products with face and back veneers of radiata and/or agathis pine.¹³³ Instead, U.S. imports of hardwood plywood from Vietnam have skyrocketed, increasing from \$29,358,000 in imported value in 2016 to \$309,349,000 in imported value in 2019,¹³⁴ an increase of approximately

¹³² Import and Export Data, attached at **Exhibit 6**.

¹³³ *Id.* Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

¹³⁴ *Id.* Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

950%. At the same time, Chinese exports of hardwood plywood to Vietnam have greatly increased.¹³⁵

Again, even the Vietnamese government has recognized the aberrational nature of these import trends and suspects that the surge in exports of plywood products to the United States from Vietnam is the result of Chinese companies improperly seeking to avoid tariffs.¹³⁶ According to the Vietnam Timber and Forest Product Association, exports of plywood to the United States in 2018 increased by 2.7 times levels in 2017, to \$190 million.¹³⁷ According to Vietnam Customs, the country's exports of plywood to the United States in the first quarter of 2019 increased 95% year-on-year, to \$47 million.¹³⁸ In the same period, Chinese imports into Vietnam rose 37% to \$61 million, accounting for 84% of all plywood imports.¹³⁹ In short, the pattern of trade strongly suggests that Chinese hardwood plywood is being transshipped or circumvented through Vietnam to avoid the high AD/CVD duties on Chinese hardwood plywood. Accordingly, this factor supports an affirmative determination of circumvention.

2. Chinese Manufacturers/Exporters of Hardwood Plywood Appear to be Establishing Assembly Operations in Vietnam

Public information regarding the specific Chinese producers/exporters and Vietnamese companies involved in this circumvention scheme is not reasonably available. Notwithstanding, the members of the Coalition understand that a significant number of Chinese producers and

¹³⁵ *Id.*

¹³⁶ *See* Dat Nguyen, *Vietnam suspects China hand in plywood export surge*, VNExpress International (Sept. 4, 2019), attached at **Exhibit 8**.

¹³⁷ *See id.*; *see also* Nguyen Xuan Quynh, *Vietnam Orders Urgent Measures to Combat Trade Fraud*, Bloomberg (Jan. 6, 2020), attached at **Exhibit 5**.

¹³⁸ *See* Dat Nguyen, *Vietnam suspects China hand in plywood export surge*, VNExpress International (Sept. 4, 2019), attached at **Exhibit 8**.

¹³⁹ *See id.*

exporters and Vietnamese companies are circumventing the Orders by manufacturing the face and back veneers and either an assembled core or individual core veneers in China, *i.e.*, completing the vast majority of the production process in China, and simply moving the final assembly and completion stages to Vietnam for the express purpose of avoiding duties. Petitioner also has reason to believe that some of the Chinese producers/exporters and Vietnamese assembly operations are affiliated.

For instance, Petitioner provides [

], that states [

].”¹⁴⁰ []

indicates that [

].¹⁴¹

Petitioner submits that the fact that companies who have previously imported Chinese hardwood plywood are now importing significant quantities of hardwood plywood from Vietnam from certain Vietnamese producers/exporters also suggests that there may be some relationship between the prior Chinese producers/exporters for these importers and the entities that they are now importing from in Vietnam. Again, importers such as [

], appear to be importing significant quantities of

¹⁴⁰

[

], attached at **Exhibit 15**.

¹⁴¹

Id.

hardwood plywood from Vietnam, from companies such as [

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Thus, based on the reasonably available information, Petitioner submits that this factor also supports an affirmative finding of circumvention.

3. Imports of Chinese Hardwood Plywood into Vietnam Have Increased Significantly Since the Initiation of the Underlying Investigations

Again, the import statistics and pattern of trade strongly suggest circumvention. As detailed above, since the underlying investigations and imposition of the Orders, Chinese exports of hardwood plywood to the United States have decreased substantially.¹⁴³ While U.S. imports of softwood plywood surged after the investigations, they have dropped since the circumvention inquiry covering certain plywood products with face and back veneers of radiata and/or agathis pine.¹⁴⁴ Instead, U.S. imports of hardwood plywood from Vietnam have skyrocketed, increasing from \$29,358,000 in imported value in 2016 to \$309,349,000 in imported value in 2019,¹⁴⁵ an increase of approximately 950%. At the same time, Chinese exports of hardwood plywood to Vietnam have greatly increased.¹⁴⁶ The data illustrate essentially parallel trends in Chinese exports of hardwood plywood to Vietnam and U.S. imports of hardwood plywood from Vietnam, and thus

¹⁴² [] data, attached at **Exhibit 9**.

¹⁴³ Import and Export Data, attached at **Exhibit 6**.

¹⁴⁴ *Id.* Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

¹⁴⁵ *Id.* Petitioner has annualized the 2019 data using data for January through November 2019 from USITC Dataweb.

¹⁴⁶ *Id.*

also strongly suggest circumvention. Accordingly, an assessment of this factor further supports an affirmative finding of circumvention.

H. The Department Should Make a Country-Wide Finding of Circumvention

In accordance with the above, Petitioner respectfully requests that the Department make its circumvention determination on a country-wide basis. Section 781(b) of the Act contains no requirement that the Department limit its circumvention determination to specific companies.¹⁴⁷ In fact, section 781(b) provides that the Department take the action it finds “appropriate . . . to prevent evasion of such order.”¹⁴⁸ This suggests that where a country-wide remedy is needed to “prevent evasion” the Department is authorized and urged to issue such a remedy. This interpretation is supported in practice, as the Department has made circumvention findings on a country-wide basis in numerous anti-circumvention inquiries.¹⁴⁹

The Department applies circumvention determinations on a country-wide basis when multiple foreign producers circumvent the underlying order “using the same general approach.”¹⁵⁰ Indeed, in *Cold-Rolled from China*, the Department found that given the lack of direction in the Act that section 781(b) inquiries must necessarily be limited to individual companies, where the nature of the allegations is general, a country-wide finding is appropriate.¹⁵¹ Furthermore, the

¹⁴⁷ See 19 U.S.C. § 1677j(b).

¹⁴⁸ See *id.* § 1677j(b)(1)(E).

¹⁴⁹ See, e.g., *Aluminum Extrusions From the People’s Republic of China*, 84 Fed. Reg. 39,805 (Dep’t Commerce Aug. 12, 2019) (final affirm. deter. of circ. of the antidumping duty and countervailing duty orders, and partial rescission); *Certain Cold-Rolled Steel Flat Products From the People’s Republic of China*, 83 Fed. Reg. 23,891 (Dep’t Commerce May 23, 2018) (affirm. final deter. of circ. of the antidumping duty and countervailing duty orders); *Certain Corrosion-Resistant Steel Products From the People’s Republic of China*, 83 Fed. Reg. 23,895 (Dep’t Commerce May 23, 2018) (affirm. final deter. of circ. of the antidumping duty and countervailing duty orders).

¹⁵⁰ *Certain Cut-to-Length Carbon Steel Plate from the People’s Republic of China*, 76 Fed. Reg. 50,996, 50,997 (Dep’t Commerce Aug. 17, 2011) (affirm. final deter. of circ. of the antidumping duty order).

¹⁵¹ Issues and Decision Memorandum accompanying *Certain Cold-Rolled Steel Flat Products From the People’s Republic of China*, 83 Fed. Reg. 23,891 (Dep’t Commerce May 23, 2018) (affirm. final deter. of circumvention of the

Department expressed concern that absent a country-wide finding, companies currently not engaging in the circumvention could easily do so in the future.¹⁵²

Here, Petitioner reasonably believes that multiple companies are circumventing the Orders using the same approach. Indeed, the nature of the circumvention, that Vietnamese companies are assembling and finishing face and back veneers and core manufactured in China, is such that an unlimited number of companies can participate in the alleged activity. The import trends reflect this. Specifically, the massive increase in imports of hardwood plywood from Vietnam, over 950% in imported value in just three years, during the same period in which Chinese exports of hardwood plywood to the United States fell and instead Chinese exports of hardwood plywood to Vietnam increased, suggests that multiple companies are engaging in the circumvention at issue in this request.¹⁵³ Like in *Cold-Rolled from China*, the evidence here suggests wide-spread circumvention, and the trade patterns also indicate that since the Orders were imposed, exports of subject merchandise from China to the United States dropped, exports of the same products from Vietnam to the United States grew dramatically, and shipments of substrate from China to Vietnam also increased.¹⁵⁴ Consequently, to fully address the circumvention taking place, and to prevent the need for multiple proceedings, the Department should make its finding on a country-wide basis. Petitioner also provides [

antidumping duty and countervailing duty orders) at cmt. 3 (“Cold-Rolled from China Circumvention Determination”).

¹⁵² *Id.*

¹⁵³ Import and Export Data, attached at **Exhibit 6**.

¹⁵⁴ *See* Cold-Rolled from China Circumvention Determination.

], that provides [

].¹⁵⁵ This suggests that many Chinese companies may be engaging in the circumvention at issue here.

V. **CONCLUSION**

For the reasons stated above, Petitioner respectfully requests that the Department immediately address the latest attempt of Chinese producers/exporters to circumvent the AD/CVD orders on hardwood plywood from China. Information reasonably available to Petitioner demonstrates that Chinese producers are manufacturing the face veneers, back veneers, and core veneers for plywood that would fall within the scope of the Orders in China and then shipping the face and back veneers and either an assembled core or individual core veneers to Vietnam to merely be assembled into finished plywood before exporting to the United States for the express purpose of avoiding AD/CVD duties.

Petitioner respectfully requests that the Department confirm based on the plain scope language that the assembly and any finishing occurring in Vietnam is insufficient to remove otherwise subject merchandise from the coverage of the Orders. In the alternative, Petitioner requests that the Department confirm that this merchandise constitutes merchandise completed or assembled in a third country that is circumventing, and should be included in, the scope of the Orders.

¹⁵⁵

[

], attached at **Exhibit 15**.


* * *

REQUEST FOR PROPRIETARY TREATMENT

Pursuant to 19 C.F.R. § 351.304(a), Petitioner requests proprietary treatment for bracketed information contained in Pages 14, 15, 20, 25, 30, 34, 35, 37, 40-42, 44-46, 48, 49, 51, 52, Exhibit List and Exhibits 9, 10, and 15. This information is business proprietary information because it refers to information that would tend to reveal the names of particular persons from whom business proprietary information was obtained and other specific business information, the release of which to the public would cause substantial harm to the competitive position of the submitter, as protected under 19 C.F.R. § § 351.105(c)(9) and (11). Public disclosure of this information, which is not otherwise publicly available, would result in serious and substantial harm to the competitive position of the submitter of the information as foreseen by 19 C.F.R. § 351.105(c)(11) and would impair the ability of the Department to obtain information necessary to fulfill its statutory functions. Petitioner agrees to the release of this information to parties granted access under the APO issued by the Department in this proceeding.

If you have any questions regarding this submission, please do not hesitate to contact us.

Respectfully submitted,



Timothy C. Brightbill, Esq.
Stephanie M. Bell, Esq.
Tessa V. Capeloto, Esq.
Elizabeth S. Lee, Esq.

*Counsel for the Coalition for Fair Trade in
Hardwood Plywood*

COMPANY CERTIFICATION

I, Clifford T. Howlett, President of the Coalition for Fair Trade in Hardwood Plywood (comprised of Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, States Industries, Inc., and Timber Products Company), certify that I prepared or otherwise supervised the preparation of the attached submission of *Request for Scope Ruling/Anti-Circumvention Ruling*, filed on February 25, 2020 pursuant to the Scope Inquiry of the antidumping and countervailing duty orders on *Hardwood Plywood Products from the People's Republic of China*, (Case Nos. A-570-051 and C-570-052). I certify that the public information and any business proprietary information of the Coalition for Fair Trade in Hardwood Plywood contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also 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. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Clifford T. Howlett

Date: February 25, 2020

REPRESENTATIVE CERTIFICATION

I, Timothy C. Brightbill, with Wiley Rein LLP, counsel to the Coalition for Fair Trade in Hardwood Plywood, certify that I have read the attached submission of Request for Scope Ruling/Anti-Circumvention Ruling, due or filed on February 25, 2020, pursuant to the Scope Inquiry of the antidumping and countervailing duty orders on *Certain Hardwood Plywood Products from the People's Republic of China*, (Case Nos. A-570-051 and C-570-052). In my capacity as counsel of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. 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. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature:



Timothy C. Brightbill

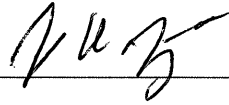
Date: February 25, 2020

CERTIFICATE OF SERVICE

PUBLIC SERVICE

Certain Hardwood Plywood Products from the People's Republic of China
A-570-051/C-570-052
Scope Inquiry

I certify that a copy of this public submission was served on the following parties, via first class mail, on February 25, 2020.



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EXHIBIT LIST		
Exhibit No.	Exhibit	Security
1	Memorandum from Shawn Thompson, Dir., Off. V, Enf't and Compliance, AD/CVD Operations, to The File, re: <i>U.S. Customs and Border Protection Enforce and Protect Act Investigation No. 7252, Certain Hardwood Plywood Products from the People's Republic of China (A-570-051 and C-570-052): Placement of Covered Merchandise Referral Documents on the Record</i> (Jan. 21, 2020)	Public
2	Letter from Carrie L. Owens, Dir., Enf't Ops. Division, Trade Remedy Law Enf't Directorate, Off. of Trade, to Messrs. Wong, Xu, Bennett, Stone, McNichols, Coors and Levy, re: <i>Notice of Initiation of Investigation and Interim Measures (EAPA Cons. Case Number 7252)</i> (Nov. 20, 2018)	Public
3	Letter from Regina Wilson, Acting Dir., Enf't Ops. Division, Trade Remedy & Law Enf't Directorate, CBP Off. of Trade, to Counsel and Representatives of the above-referenced Entities, re: <i>Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7321</i> (Oct. 1, 2019)	Public
4	Nguyen Dieu Tu Uyen, <i>Vietnam Takes "Drastic Steps" on Fraudulent Exports to U.S.</i> , Bloomberg (Nov. 20, 2019)	Public
5	Nguyen Xuan Quynh, <i>Vietnam Orders Urgent Measures to Combat Trade Fraud</i> , Bloomberg (Jan. 6, 2020)	Public
6	Import and Export Data	Public
7	<i>Hardwood Plywood from China</i> , Investigation Nos. 701-TA-565 and 731-TA-1341, USITC Pub. 4747 (Dec. 2017) (Final) ("USITC Pub. 4747") (excerpts)	Public

EXHIBIT LIST		
Exhibit No.	Exhibit	Security
8	Dat Nguyen, <i>Vietnam suspects China hand in plywood export surge</i> , VNExpress International (Sept. 4, 2019)	Public
9	[] data	Public
10	Declaration of []	Public
11	Petition for the Imposition of Antidumping and Countervailing Duties, <i>Certain Hardwood Plywood Products from the People's Republic Of China</i> , vol. I (Nov. 18, 2016) (“Petition, vol. I”) (excerpts)	Public
12	Memorandum from Alex Wood, International Trade Compliance Analyst, Off. II, Antidumping and Countervailing Duty Operations, to James Maeder, Deputy Asst. Sec’y for Antidumping and Countervailing Duty Operations, re: <i>Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Scope Ruling on WorldPac Inc.’s Wheel Hub Assemblies</i> (Sept. 11, 2019) (“WorldPac German Wheel Hub Scope Ruling”)	Public
13	Memorandum from Fred Baker, Analyst, AD/CVD Operations, Office VI, to James Maeder, Deputy Asst. Sec’y for Antidumping and Countervailing Duty Operations, re: <i>Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People’s Republic of China: Aluminum Jalousie Shutters</i> (Oct. 15, 2019) (“Air Master Scope Ruling”)	Public
14	Plywood: The Production Process, Kitronik	Public
15	[]	Public

EXHIBIT 1



A-570-051, C-570-052
Scope Inquiry – CBP EAPA Inv. 7252
Public Document
E&C/V: NM

January 21, 2020

MEMO TO: The File

FROM: Shawn Thompson
Director, Office V
Enforcement and Compliance, AD/CVD Operations

RE: U.S. Customs and Border Protection Enforce and Protect Act Investigation
No. 7252, Certain Hardwood Plywood Products from the People's
Republic of China (A-570-051 and C-570-052)

SUBJECT: Placement of Covered Merchandise Referral Documents on the Record

Attached to this memorandum and placed on the record is the covered merchandise referral, dated September 16, 2019, that the U.S. Department of Commerce received from U.S. Customs and Border Protection (CBP) and a Notice of Initiation of Investigation and Interim Measures (Interim Measures) from CBP dated November 20, 2018, pertaining to CBP's Enforce and Protect Act Investigation No. 7252. The covered merchandise referral and Interim Measures contains new factual information under 19 CFR 351.102(b)(21)(iv).



U.S. Customs and Border Protection



September 16, 2019

PUBLIC DOCUMENT

EAPA Cons. Case Number: 7252

Mr. Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance
International Trade Administration
U.S. Department of Commerce

Re: Scope Referral Request for merchandise under EAPA Cons. Investigation 7252, imported by Far East America, Inc., CIEL Group, American Pacific Plywood, Interglobal Forest, and Liberty Woods International, Inc., ("importers") and concerning the investigation of evasion of the antidumping and countervailing duty orders on hardwood plywood from the People's Republic of China (A-570-051 and C-570-052).

Dear Assistant Secretary Kessler,

The following referral is submitted pursuant to U.S. Customs and Border Protection ("CBP") Enforce and Protect ACT ("EAPA") regulation 19 CFR §165.16 in response to EAPA consolidated investigation 7252. The allegation asserts that the importers have failed to properly declare imported merchandise as subject to the antidumping duty ("AD")¹ and countervailing duty ("CVD")² orders on hardwood plywood from the People's Republic of China (China) (A-570-051 and C-570-052).

Background

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. Specifically, the allegations contend that the Vietnamese manufacturer, Vietnam Finewood Company Limited ("Finewood"), lacked the capability to produce the

¹ See *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) (Countervailing Order).

volume of merchandise exported to the United States during the period of review³ and, therefore, transshipped Chinese origin plywood through Vietnam to the importers.

In response to CBP requests for information, Finewood submitted documentation indicating that its production of finished plywood involved importing 2-ply panels from China under HTS subheading 4412. Finewood indicated that it outsourced the Chinese panels to tollers in Vietnam to develop the plywood core in varying sizes. Upon receipt of the developed core from the Vietnamese tollers, Finewood applied hardwood veneer to the cores and shipped the finished product to the importers, which entered the Customs territory of the United States under HTSUS subheading 4412.

On August 23, 2019, CBP submitted its initial request for a covered merchandise referral in this case. Upon consultation with Commerce officials, CBP submits this updated covered merchandise referral.

Referral Request

Section 517(b)(4)(A) of the Act states that “{i}f the {CBP} Commissioner receives an allegation... and is unable to determine whether the merchandise at issue is covered merchandise, the Commissioner shall—(i) refer the matter to the administering authority to determine whether the merchandise is covered merchandise pursuant to the authority of the administering authority under title VII.”⁴ Section 517(a)(3) of the Act defines “covered merchandise” as “merchandise that is subject to (A) an antidumping duty order issued under section {736 of the Act} or (B) a countervailing duty order issued under section {706 of the Act}.”

The merchandise covered by the orders includes “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.”⁵

The question arises as to whether the 2-ply cores of Chinese origin, which are further processed in Vietnam to include the face and back veneers of non-coniferous wood, are within the scope of the orders.

CBP has considered that lamination of a veneer face and/or back veneers to a plywood substrate consisting of 2 or more plies does not constitute a substantial transformation.⁶ Section 134.1(b) of the Customs Regulations (19 CFR 134.1(b)) provides that

³ See Allegation, Plywood Source Submission of Factual Information, October 4, 2018

⁴ See also 19 CFR 165.16(a), which states that a “referral is required if at any point after receipt of an allegation, CBP cannot determine whether the merchandise described in an allegation is properly within the scope of an antidumping or countervailing duty order.”

⁵ See Antidumping Order and Countervailing Order.

⁶ See Customs Rulings N146815 (March 7, 2011), N282788 (February 7, 2017), and N291240 (November 7, 2017). (CBP Rulings)

the "[c]ountry of origin" means the country of manufacture, production or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of Part 134, Customs Regulations (19 CFR Part 134). Substantial transformation requires that "[t]here must be a transformation; a new and different article must emerge, 'having distinctive name, character, or use.'" *Anheuser-Busch Brewing Association v. United States*, 207 U.S. 556, 28 S. Ct 204 (1908).

Accordingly, in considering this issue, CBP cites The Explanatory Notes of the Harmonized Commodity Description and Coding System ("EN"s) for Heading 4412, Harmonized Tariff Schedule of the United States ("HTSUS") in determining country of origin of plywood cores that are further processed in a third country and to consider whether merchandise further processed in such a manner are within the scope of the orders. Specifically, the ENs for Heading 4412 direct that "{s}ubstrates of only two layers do not constitute plywood, but instead are laminated panels - also of Heading 4412, HTSUS. The lamination of a veneer face ply onto a substrate of two layers renders plywood, yet does not significantly change the classification; the article is still classifiable in Heading 4412, HTSUS. The lamination of the veneer face ply to the substrate, therefore, does not render a new and different article."⁷ Thus, for CBP purposes in this instance, because no substantial transformation is effected by any of the manufacturing, neither the materials nor processing sourced outside of China impacts the country of origin of the imported goods. The country of origin for the complete flooring panels is China.

In the present EAPA investigation, CBP is unable to determine whether the hardwood plywood produced by Finewood in Vietnam from Chinese origin materials is covered merchandise. Therefore, pursuant to Section 517(b)(4)(A) of the Act, CBP submits this covered merchandise referral to Commerce for its determination concerning whether the merchandise produced as outlined above is covered merchandise within the scope of the Order.

Please contact us if you have any questions.

Sincerely,

Regina Walton

Regina Walton
Acting Director, Enforcement Operations Division
Trade Remedy & Law Enforcement Directorate
Office of Trade

⁷ *Id.*

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U.S. Customs and
Border Protection



November 20, 2018

PUBLIC VERSION

EAPA Cons. Case Number 7252

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Mr. Ofir Levy
Plywood Source LLC
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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,³ 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 transshipped 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 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.

³ 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 []. 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 [] cubic meters ("CBM"), or approximately [] 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, []).

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.worldcargonet.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 [] 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 *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 *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 CFR § 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:

¹⁸See 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%EF%BC%88finishing-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. Ofir 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 eapaallegations@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

EXHIBIT 2

U.S. Customs and
Border Protection



November 20, 2018

PUBLIC VERSION

EAPA Cons. Case Number 7252

Mr. Oliver W.C. Wong
CEO, Far East American, Inc.
5410 McConnell Ave.
Los Angeles, CA 90066

David M. Stone / Matt McNichols
InterGlobal Forest
2190 W. 11th Ave., # 231
Eugene, OR 97402

Mr. Shuning Xu
CEO, Ciel Group, Inc.
1706 E. Francis Street
Ontario, CA 91761

J. Bradford Coors
CEO, Liberty Woods International, Inc.
1903 Wright Place, #360
Carlsbad, CA 92008

Mr. John Bennett
CEO, American Pacific Plywood, Inc.
414 1st Street
Solvang, CA 93463

Mr. Ofir Levy
Plywood Source LLC
2943 E. Las Hermanas St.
Compton, CA 90221

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,³ 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 transshipped 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 allegor 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 allegor began compiling data and information on VN Finewood shortly after the company began operations in April 2018. According the allegor, 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.

³ 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 []. 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 [] cubic meters ("CBM"), or approximately [] 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, []).

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.worldcargonet.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 [] 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 *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 *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 CFR § 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:

¹⁸See 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%EF%BC%88finishing-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 allegor, Mr. Ofir 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 capaallegations@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

EXHIBIT 3



U.S. Customs and Border Protection

PUBLIC VERSION

October 1, 2019

Matt McNichols
InterGlobal Forest, Inc.
2190 West 11th Avenue, #231
Eugene, OR 97402

John P. Bennett
American Pacific Plywood, Inc.
414 First Street
Solvang, CA 93463

Timothy Brightbill
On behalf of the Coalition for
Fair Trade of Hardwood Plywood
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

Jun Zhang
U.S. Global Forest, Inc.
663 Brea Canyon Road, Suite 8
Walnut, CA 91789

Re: Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7321

To the Counsel and Representatives of the above-referenced Entities:

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), for InterGlobal Forest, LLC (InterGlobal); American Pacific Plywood, Inc. (American Pacific); and U.S. Global Forest Inc. (U.S. Global) (collectively, the Importers). CBP is investigating whether the Importers have evaded antidumping duty (AD) order A-570-051 and countervailing duty (CVD) order C-570-052 on certain hardwood plywood products (plywood) from the People's Republic of China (China)¹ when importing plywood into the United States. Because evidence supports a reasonable suspicion that the Importers entered covered merchandise into the customs territory of the United States through evasion, CBP has imposed interim measures.²

Period of Investigation

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation are those "entries of allegedly covered merchandise made within one year before the receipt of an allegation...."

¹ See *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 FR 53460 (November 16, 2017) (AD Order); see also *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 FR 53473 (November 16, 2017) (CVD Order) (collectively, AD/CVD orders).

² See 19 USC 1517(e); see also 19 CFR 165.24.

Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”³ CBP acknowledged receipt of the properly filed allegations against InterGlobal, American Pacific, and U.S. Global on June 5, 2019.⁴ These three investigations are now consolidated as discussed further below, and the entries covered by the consolidated investigation are those entered for consumption, or withdrawn from warehouse for consumption, from June 5, 2018, through the pendency of this investigation.⁵

Initiation

On June 26, 2019, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP’s Office of Trade, initiated investigations under EAPA as a result of allegations submitted by the Coalition for Fair Trade of Hardwood Plywood (the Coalition) on evasion of antidumping and countervailing duties by InterGlobal, American Pacific, and U.S. Global.⁶ In these allegations, the Coalition asserts that InterGlobal, American Pacific, and U.S. Global evaded the AD/CVD orders on plywood from China by importing Chinese-origin plywood that was transshipped through Cambodia.⁷

Concerning transshipment of Chinese-origin plywood through Cambodia, the Coalition claims that recent import and export trends in China, Cambodia, and the United States pertaining to plywood are consistent with this pattern of transshipment. The Coalition asserts that since the imposition of the AD/CVD orders, Chinese exports of plywood to the United States decreased

³ See 19 USC 1517(a)(4); *see also* 19 CFR 165.1.

⁴ See the June 5, 2019, Receipt Notification Emails to Timothy Brightbill of Wiley Rein LLP for EAPA Allegations 7321 (InterGlobal), 7323 (American Pacific), and 7327 (U.S. Global).

⁵ See 19 CFR 165.2.

⁶ See CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7321 – InterGlobal Forest, LLC,” dated June 26, 2019 (InterGlobal Initiation); *see also* CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7323 – American Pacific Plywood, Inc.,” dated June 26, 2019 (American Pacific Initiation); *see also* CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7327 – U.S. Global Forest, Inc.,” dated June 26, 2019 (U.S. Global Initiation).

⁷ See Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated April 12, 2019 (InterGlobal Allegation); *see also* Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated May 1, 2019 (Revised InterGlobal Allegation); *see also* Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated April 12, 2019 (American Pacific Allegation); *see also* Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated May 1, 2019 (Revised American Pacific Allegation); *see also* Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated April 15, 2019 (U.S. Global Allegation); *see also* Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated May 1, 2019 (Revised U.S. Global Allegation); *see also* Letter from the Coalition, “Certain Hardwood Plywood Products from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act,” dated May 10, 2019 (Second Revised U.S. Global Allegation).

from 1,153,065 cubic meters in 2017 to 181,288 cubic meters in 2018.⁸ The Coalition further states that a large increase in the volume of Chinese exports of plywood to Cambodia and Cambodian exports of plywood to the United States occurred in the same period. In support, the Coalition notes that Chinese exports of plywood to Cambodia surged from 23,332,665 kg (approximately 35,896 cubic meters) in 2016 to 99,131,394 kg (approximately 152,510 cubic meters) in 2018⁹ and Cambodian exports of plywood to the United States more than doubled from 20,452 cubic meters in 2017 to 53,831 cubic meters in 2018.¹⁰ The Coalition maintains that this data suggests Chinese exporters of plywood shifted their exports from the United States to Cambodia and then transshipped Chinese-origin plywood from Cambodia to the United States.

The Coalition further asserts that Cambodia's domestic consumption of plywood cannot account for the recent influx of Chinese-origin plywood into Cambodia. The Coalition notes that Cambodia consumed only 30,000 cubic meters of plywood in 2016, which is slightly more than its production of 27,000 cubic meters. Even though Cambodia's production and consumption statistics do not indicate that it had surplus production to export, the figures still report that Cambodia exported 20,000 cubic meters.¹¹ Further, the Coalition notes that even if Cambodia's 2016 domestic consumption dropped to zero, Cambodia would have to approximately double its 2016 production of 27,000 cubic meters to equal the 53,831 cubic meters of plywood that was exported to the United States in 2018, which the Coalition maintains is unlikely. Thus, the Coalition notes that the context of the data suggests a situation in which Chinese-origin plywood passes through Cambodia by transshipment.

InterGlobal and American Pacific

The Coalition claims that InterGlobal and American Pacific, two unrelated U.S.-based importers of plywood, each recently began a relationship with a Cambodian exporter of plywood, LB Wood Cambodia (LB Wood).¹² LB Wood is located in Cambodia's Sihanoukville Special Economic Zone (SSEZ), near Cambodia's only deep-water port.¹³ The Coalition claims that the SSEZ was purposefully designed to link Chinese and Cambodian trading partners and facilitate the global dissemination of their products. Likewise, the SSEZ describes itself as an "economic and trade cooperation zone constructed by Chinese and Cambodian enterprises, which is a landmark project on {the} 'Belt and Road' Initiative."¹⁴ Thus, the Coalition asserts that it is highly likely that LB Wood has relationships with Chinese plywood producers as well as the facilities necessary to transship covered merchandise to the United States. The Coalition notes that LB Wood shipped at least 60 shipments of covered merchandise to InterGlobal in 2018 with

⁸ See Revised InterGlobal Allegation at Exhibit 4 (USITC Dataweb).

⁹ *Id.* at Exhibits 2 (The Forestry Yearbook) and 3 (Chinese Export Statistics). Exhibit 2 provides a ratio in which one cubic meter of plywood equals about 650 kg.

¹⁰ *Id.* at Exhibit 4 (USITC Dataweb).

¹¹ *Id.* at Exhibit 2 (The Forestry Yearbook).

¹² *Id.* at 10; see also Revised American Pacific Allegation at 10.

¹³ See Revised InterGlobal Allegation at Exhibit 6.

¹⁴ *Id.* at Exhibit 8. The Belt and Road Initiative supplies low-cost Chinese government funds for infrastructure projects outside China that are designed to link foreign back trade to China.

a combined weight of 5,000,000 kg (approximately 7,690 cubic meters) for a total value of over USD \$6,000,000 and LB Wood also shipped at least 13 shipments of covered merchandise to American Pacific in 2018 with a combined weight of 754,400 kg (approximately 1,160 cubic meters) for a total value of USD \$715,171.¹⁵ The Coalition further states that according to these figures it appears that InterGlobal imported almost one-third of Cambodia's total plywood production in 2016, which they assert is unlikely for one U.S. importer.¹⁶ The Coalition also asserts that LB Wood's earliest shipment to American Pacific occurred after the imposition of the AD/CVD orders, which indicates that their relationship with American Pacific did not precede the AD/CVD orders.¹⁷

The Coalition states that InterGlobal openly sourced its plywood from China before the imposition of the AD/CVD orders and the beginning of its relationship with LB Wood. They maintain that since the imposition of the AD/CVD orders, InterGlobal changed its website to obscure its alleged relationship with Chinese producers of plywood. Nevertheless, the Coalition maintains that certain aspects of the website indicate that InterGlobal continues to source plywood from China. For example, InterGlobal currently lists a product category on its website as "Asian Plywood;" yet, the corresponding "URL of this page is <https://www.interglobalforest.com/chinese-plywood.html>, which suggests that InterGlobal was originally advertising Chinese plywood."¹⁸ The Coalition further notes that until recently this webpage was entitled "Chinese Plywood" and included a picture of boxes with InterGlobal's logo and a "Made in China" stamp.¹⁹ In addition, the Coalition maintains that until recently the file name of this image's source code was also "Chinese-plywood.jpg."²⁰ Finally, the Coalition pointed out a marketing website that is updated weekly in which InterGlobal states, "{w}e currently import a diversified mix of panels from Belgium, Brazil, China, Indonesia, Russia, and Turkey."²¹ However, Cambodia is not mentioned.

In addition to alleged website irregularities, the Coalition presented documentation indicating that one of InterGlobal's Chinese suppliers, [REDACTED], [REDACTED], [REDACTED] and that [REDACTED].²²

The Coalition also points out that InterGlobal and American Pacific are both under investigation in EAPA case 7252 for transshipping Chinese-origin plywood through Vietnam.²³ The Coalition notes that in EAPA 7252 a Vietnamese exporter/manufacturer is

¹⁵ *Id.* at 10 and Exhibit 2 (The Forestry Yearbook); *see also* Revised American Pacific Allegation at 10 and Exhibits 3 (The Forestry Yearbook) and 6 ([REDACTED]).

¹⁶ *See* Revised InterGlobal Allegation at 11.

¹⁷ *See* Revised American Pacific Allegation at 10 and Exhibit 6.

¹⁸ *See* Revised InterGlobal Allegation at 12 and Exhibit 9.

¹⁹ *Id.* at Exhibit 10.

²⁰ *Id.*

²¹ *Id.* at Exhibit 11.

²² *Id.* at 12 and Exhibit 12. [REDACTED]

²³ *Id.* at Exhibit 13; *see also* Revised American Pacific Allegation at 11 and Exhibit 10.

alleged to have begun operations after the AD/CVD order went into force in order to transship subject merchandise. The Coalition maintains that InterGlobal's and American Pacific's relationship with their Vietnamese supplier and the evidence pertaining to their alleged involvement in transshipping through Vietnam indicate that InterGlobal and American Pacific likely have the knowledge and ability to engage in transshipping through Cambodia as well.

U.S. Global

The Coalition claims that U.S. Global, a U.S.-based importer of plywood, has a nearly exclusive relationship with a Cambodian exporter of plywood, Cambodia Happy Home Wood Products Co., Ltd. (Happy Home).²⁴ Happy Home is also located in the SSEZ.²⁵ The Coalition claims that the SSEZ was purposefully designed to link Chinese and Cambodian trading partners and facilitate the global dissemination of their products. Likewise, the SSEZ describes itself as an “economic and trade cooperation zone constructed by Chinese and Cambodian enterprises, which is a landmark project on {the} ‘Belt and Road’ Initiative.”²⁶ Thus, the Coalition asserts that it is highly likely that Happy Home has relationships with Chinese plywood producers as well as the facilities necessary to transship subject merchandise to the United States. The Coalition notes that Happy Home shipped at least 59 shipments of subject merchandise to U.S. Global in 2018 with a combined weight of 8,829,460 kg (approximately 13,580 cubic meters) and a total value of USD \$8,370,328.²⁷ The Coalition further notes that these shipments from Happy Home to U.S. Global account for 50.3 percent of Cambodia's total production in 2016.²⁸ The Coalition asserts that it is highly unlikely that U.S. Global's imports would account for so much of Cambodia's production and that this suggests that at least some of this amount does not originate in Cambodia.

Initiation Assessment

TRLED 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.”²⁹ 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 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 covered merchandise.”³⁰ Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the

²⁴ *Id.* at 10 and Exhibit 4 ([]).

²⁵ *Id.* at 10-12 and Exhibits 8 and 9.

²⁶ *Id.* at Exhibit 9.

²⁷ *Id.* at 11 and Exhibits 4 ([]) and 5 (The Forestry Yearbook).

²⁸ *Id.* at 11.

²⁹ See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

³⁰ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

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 cash deposits or other security.

All three allegations claim that Chinese exports of plywood to the United States decreased while its exports of plywood to Cambodia and Cambodia's exports of plywood to the United States concurrently increased. Because Cambodia has very limited domestic production and consumption of plywood, it seems unlikely that the recent increase in Chinese-origin plywood exports to Cambodia is driven chiefly by Cambodia's consumption or production needs. In addition, the available data from 2016 indicates that Cambodia's production of plywood at 27,000 cubic meters was slightly less than its consumption at 30,000 cubic meters. It would be expected that the amount of plywood Cambodia exported, which was 20,000 cubic meters in 2016, would be reflected in a corresponding surplus of production above the amount consumed. Therefore, these trends reasonably suggest that some Chinese exports of plywood pass through Cambodia by transshipment to the United States.

The Importers' trading partners LB Wood and Happy Home are both located in the SSEZ. The SSEZ's intent, to closely partner Chinese and Cambodian companies, indicates potential Chinese sources for LB Wood's and Happy Home's plywood supplies.³¹ The volume of U.S. Global's imports as a proportion of Cambodia's domestic plywood production, *i.e.* about 50 percent, along with its supplier Happy Home's potential connections to Chinese plywood suppliers contribute to a reasonable suspicion of transshipment. In addition, the timing of InterGlobal's and American Pacific's alleged shift from Chinese suppliers of plywood to a Cambodian exporter of plywood, LB Wood, with potential connections to Chinese plywood suppliers, also contributes to a reasonable suspicion of transshipment.³²

Regarding InterGlobal, changes to its website suggest that its "Chinese Plywood" has been renamed "Asian Plywood." Likewise, the website marketing InterGlobal's products describes InterGlobal sourcing its products from China and various other countries but does not mention Cambodia. These irregularities on InterGlobal's website reasonably suggest evasion. Moreover, InterGlobal and American Pacific have been under investigation for transshipping plywood through Vietnam. It is conceivable that an importer experienced in transshipping Chinese-origin plywood through Vietnam would be able to use the knowledge and business connections gained from that experience to transship Chinese-origin plywood through Vietnam's southwestern neighbor Cambodia as well.

In assessing the claims made and evidence provided in the allegations, TRLED found that the allegations reasonably suggest that the Importers are evading AD/CVD orders by importing Chinese-origin plywood into the United States via Cambodia and failing to declare the merchandise

³¹ *Id.*

³² See Revised InterGlobal Allegation at 10 and Exhibit 5; *see also* Revised American Pacific Allegation at 10 and Exhibit 6. American Pacific's imports from LB Wood appear to begin only after the imposition of the AD/CVD orders.

as subject to the AD/CVD orders.³³ Consequently, TRLED initiated the investigations pursuant to 19 USC 1517(b)(1) and 19 CFR 165.15.

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based upon the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD orders was entered into the United States through evasion. Therefore, CBP need only have sufficient evidence to support a reasonable suspicion that merchandise covered by an AD or CVD order was entered into the United States by the importer alleged to be evading by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because there is a reasonable suspicion that InterGlobal, American Pacific, and U.S. Global entered covered merchandise into the United States through evasion by means of transshipment through Cambodia.³⁴

CF-28 Responses

On August 9, 2019, and September 20, 2019, as part of the EAPA investigation process, CBP issued CF-28 questionnaires to the Importers' concerning certain entries.³⁵ U.S. Global and InterGlobal submitted their responses on September 10 and 16, 2019, respectively.³⁶ CBP has not yet received American Pacific's response to the CF-28 because the deadline for their response is after the issuance date of this notice.

In its CF-28 response, InterGlobal provided the requested documentation pertaining to the entries under question. This documentation indicates that LB Wood exported [] plywood from the SSEZ to InterGlobal, which aligns with the allegation and photographic evidence from the June 6, 2018 site visit (see subsection below).³⁷ In its CF-28 response, U.S. Global provided most of the requested information pertaining to the entries under question. However, U.S. Global did not provide the requested descriptive literature, such as a sales flyer, brochure, catalog, specification sheet, *etc.*, in response to CBP's request, nor did U.S. Global address its failure to do so.³⁸ Also, U.S. Global stated that it did not request [] from Happy Home for the entries referenced in the CF-28.³⁹ The documentation that U.S. Global provided in its response

³³ See InterGlobal Initiation; *see also* American Pacific Initiation; *see also* U.S. Global Initiation.

³⁴ See 19 CFR 165.24(a).

³⁵ See CBP Form 28 (CF-28) sent to InterGlobal, dated August 9, 2019; *see also* CF-28 sent to U.S. Global, dated August 9, 2019; *see also* CF-28 sent to American Pacific, dated September 20, 2019.

³⁶ See U.S. Global Response to CF-28, dated September 10, 2019; *see also* InterGlobal Response to CF-28, dated September 16, 2019.

³⁷ See InterGlobal Response to CF-28 at Exhibits A-1 to A-6 and B-1 to B-6; *see also* Revised InterGlobal Allegation at 10 and Exhibit 5.

³⁸ *Id.*

³⁹ See U.S. Global Response to CF-28 at 2.

indicates that Happy Home exported [] plywood from the SSEZ to U.S. Global, which aligns with the allegation and photographic evidence from the June 6, 2018, site visit.⁴⁰

Other Record Evidence

On September 12, 13, and 16, 2019, CBP added documents concerning LB Wood and Happy Home to the administrative record.⁴¹ The September 12 Memorandum pertains to site visits that CBP personnel conducted at LB Wood's and Happy Home's facilities in Cambodia on June 6, 2018. The September 13 and September 16 Memoranda pertain to relevant documentation concerning LB Wood and Happy Home that was submitted by importers that are not under an EAPA investigation.

In particular, CBP placed photographs on the record from June 2018 site visits with accompanying descriptions from a CBP official that participated in the site visits. CBP conducted these site visits on various Cambodian plywood producers with reference to preferential tariff treatment under the Generalized System of Preferences, in a proceeding unrelated to the EAPA investigation. These photographs show pallets of [] at Happy Home's facility that are typical Chinese products and of Chinese [].⁴² [] are temperate woods that could not have been harvested in Cambodia's tropical climate.⁴³ Moreover, even if [] logs were imported into Cambodia from China, the factories in Cambodia lack the sophistication to produce the [] of plywood observed at Happy Home's and LB Wood's facilities in Cambodia.⁴⁴

In an affidavit, the [] of Happy Home states that Happy Home "[]".⁴⁵ The CF-29 also notes that "[]

[]".⁴⁶ The photographs from LB Wood's facility also portray a similar set of circumstances. They show a [] plywood; however, it was broken up into multiple pieces and covered in a thick layer of dust.⁴⁷ There were also multiple pallets of [] plywood of a [] that is not typical of Cambodian plywood production; thus, indicating these pallets of plywood were not produced in Cambodia.⁴⁸ The evidence on the

⁴⁰ *Id.* at 2 and Attachments 1-3; *see also* Second Revised U.S. Global Allegation at 10 and Exhibit 4.

⁴¹ *See* CBP Memorandum, "Adding Certain Documents to the Administrative Record," dated September 12, 2019 (September 12 Memorandum); *see also* CBP Memorandum, "Adding Certain Documents to the Administrative Record," dated September 13, 2019 (September 13 Memorandum); *see also* CBP Memorandum, "Adding Certain Documents to the Administrative Record," dated September 16, 2019 (September 16 Memorandum).

⁴² *See* September 12 Memorandum at 3, 11-12.

⁴³ *Id.* at 2.

⁴⁴ *Id.* at 2-3, 14. This information comes from an email sent by a CBP [].

⁴⁵ *See* September 16 Memorandum at 36. Specifically, this comes from an affidavit submitted to CBP on [] in response to a CF-29.

⁴⁶ *Id.* at 25, 43. This quote is contained within the body of the CF-29s that CBP issued.

⁴⁷ *See* September 12 Memorandum at 14-18.

⁴⁸ *Id.* at 14, 20-21.

record supports a reasonable suspicion that the [] plywood may have originated in China and that the “[]” label on Happy Home’s and LB Wood’s products is not accurate.⁴⁹

Enactment of Interim Measures

Based on the information described above, TRLED determined that reasonable suspicion exists that the plywood that the Importers imported into the United States from Cambodia, was in fact manufactured in China. The information described above, creates the reasonable suspicion for CBP to conclude that the plywood imported by each importer into the United States was produced in China and should have been subject to AD/CVD duties.

As part of interim measures, unliquidated entries of plywood subject to this investigation will be rate-adjusted to reflect that they are subject to the AD/CVD orders on plywood from China and cash deposits will be owed. CBP will also suspend the liquidation for any entry that has entered on or after June 26, 2019, the date of initiation for the investigations incorporated into this consolidated investigation (*see below*), as well as extend the period for liquidation for all unliquidated entries that entered before that date.⁵⁰ Additionally, “live entry” is required for all future imports for InterGlobal, American Pacific, and U.S. Global, meaning that all entry documents and cash deposits must be provided before cargo is released by CBP into the U.S. commerce. CBP will reject any entry summaries that do not comply with live entry, and require refiling of entries that are within the entry summary rejection period. CBP will also evaluate the continuous bonds for InterGlobal, American Pacific, and U.S. Global to determine their sufficiency, among other measures, as needed. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

Consolidation of the Investigations

TRLED is consolidating the three investigations on InterGlobal, American Pacific, and U.S. Global into a single investigation covering all three importers. The new consolidated case number will be EAPA Consolidated Case 7321, 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 CFR 165.13(b), which stipulates that 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 of entries of covered merchandise. In these investigations, all three importers are alleged to have entered suspected Chinese-origin plywood from Cambodia that are covered by the same AD/CVD orders. The Importers’ entries also fall within a common period of investigation. Moreover, two of the Importers have a common Cambodian supplier. Because factors warranting consolidation are present in these investigations, CBP is consolidating them and

⁴⁹ *Id.* at 6-10, 20.

⁵⁰ *See* 19 CFR 165.24(b)(1)(i) and (ii).

providing this notice pursuant to 19 CFR 165.13(c). We note that the deadlines for the consolidated investigation will be set from the date of initiation of all of the allegations, which is June 26, 2019.⁵¹

For any future submissions or factual information that you submit to CBP pursuant to this consolidated EAPA investigation, please provide a public version to CBP, as well as to the email addresses of the parties identified at the top of this notice.⁵² Should you have any questions regarding this investigation, you may contact us at capallegations@cbp.dhs.gov with “EAPA Cons. Case 7321” in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP’s website at: <https://www.cbp.gov/trade/tradeenforcement/tftea/enforce-and-protect-act-eapa>.

Sincerely,

Regina Walton

Regina Walton
Acting Director, Enforcement Operations Division
Trade Remedy & Law Enforcement Directorate
CBP Office of Trade

⁵¹ See 19 CFR 165.13(a); see also 19 USC 1517(b)(5)(B).

⁵² See 19 CFR 165.4; see also 19 CFR 165.23(c); see also 19 CFR 165.26.

EXHIBIT 4

Economics

Vietnam Takes 'Drastic Steps' on Fraudulent Exports to U.S.

By [Nguyen Dieu Tu Uyen](#)

November 20, 2019, 4:00 PM EST

Updated on November 21, 2019, 12:48 AM EST

-
- ▶ Country faces pressure over its trade surplus with the U.S.
 - ▶ Customs official says fraud up sharply since trade war began
-

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Vietnam is intensifying efforts to crack down on Chinese exporters trying to route products through the Southeast Asian nation to bypass higher U.S. tariffs, a customs official said.

Vietnam has become one of the top destinations for suppliers looking to avoid U.S. duties on Chinese products amid the trade war, making the country vulnerable to goods fraudulently labeled as "Made in Vietnam," Au Anh Tuan, head of customs control and supervision in the General Department of Vietnam Customs, said in an interview in Hanoi.

"We've seen trade-fraud activities increase strongly since the trade war started," he said. "We've increased cooperation with U.S. authorities to fight against that. We're taking drastic steps,

including compiling a list of 25 items to watch.”

Vietnam’s trade surplus with the U.S. reached nearly \$40 billion in 2018. The gap hit almost \$41 billion in the first nine months of 2019, up 29% on-year, according to U.S. Census Bureau data.

U.S. Watchlist

“They really need to step up their game in this area,” said Nestor Scherbey, a licensed U.S. customs broker and consultant based in Ho Chi Minh City. “If they don’t pay attention to the country of origin of the goods being exported, they’re going to have trouble.”

In May, the U.S. Treasury Department added Vietnam to a watchlist of countries being monitored for possible currency manipulation. Asked in June if he wanted to impose tariffs on Vietnam, President Donald Trump described the country as “almost the single worst abuser of everybody.” Earlier this month, on a visit to Hanoi, Commerce Secretary Wilbur Ross urged Vietnam to reduce its trade surplus with the U.S.

The U.S. is Vietnam’s largest export market. Capital Economics Ltd. estimates that if Trump imposed 25% tariffs on imports from Vietnam as he did with Chinese goods, it would shave more than 1 percentage-point off the country’s growth rate -- more than erasing the approximately 0.5 percentage-point gain Vietnam has seen this year as a beneficiary of the trade war.

Vietnamese officials say the country will buy more big-ticket items from the U.S., including Boeing Co. planes and liquefied natural gas, to help trim the surplus.

Special Scrutiny

Customs officials are focusing on “highly suspicious” sectors -- such as electronic components and wooden furniture -- that have seen annual exports surge by more than 15%, said Mai Xuan Thanh, deputy director general of the customs department. Hundreds of domestic and foreign companies are under “special scrutiny for suspect exports,” he said.

U.S. authorities have informed their Vietnamese counterparts about big increases of any items from Vietnam that concurrently saw big drops in Chinese shipments to the U.S., Tuan said. Through October, Vietnamese customs had uncovered about 14 significant cases this year of exports with fake labels.

Beginning Dec. 27, Vietnam will suspend transshipment and temporary imports of plywood products headed to the U.S., Industry and Trade Minister Tran Tuan Anh said earlier this month. The National Steering Committee for Anti-Smuggling and Trade Fraud ordered provinces along the country's borders to step up inspections of goods being imported.

Vietnamese customs last month said it discovered and seized about \$4.3 billion of Chinese aluminum falsely labeled "Made in Vietnam" that was meant to be shipped overseas, mostly to the U.S.

"We've been putting a lot more resources toward preventing fraudulently labeled exports and illegal trans-shipments," Tuan said. "This is really hard work given the ongoing trade war."

(Updates with number of export fraud cases in 10th paragraph.)

In this article

BA

BOEING CO/THE

340.49 USD ▼ -2.33 -0.68%

NG1

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1.93 USD/MMBtu ▲ +0.09 +4.90%

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EXHIBIT 5



International Trade News

Vietnam Orders Urgent Measures to Combat Trade Fraud

By Nguyen Xuan Quynh

Jan. 6, 2020, 7:15 AM

Bloomberg Law News 2020-02-18T14:26:02462-05:00

Vietnam Orders Urgent Measures to Combat Trade Fraud

By Nguyen Xuan Quynh2020-01-06T07:15:11882-05:00

Vietnam ordered relevant agencies including trade, finance and public security ministries to take urgent measures to fight origin fraud and illegal transshipment, according to government resolution posted on website.

- Trade ministry asked to make and update lists of goods under anti-dumping and anti-subsidy investigation, or those at risk of origin fraud and illegal transshipment, and report these lists to relevant ministries, agencies and provincial authorities
- Trade ministry urged to increase verification and monitoring of issuance of origin certificates; hotline to be created
- Resolution highlights need for collaboration between authorities and organizations to fight origin fraud and illegal transshipment
- NOTE: Vietnam to Step Up Campaign Against Trade Fraud Until End 2020

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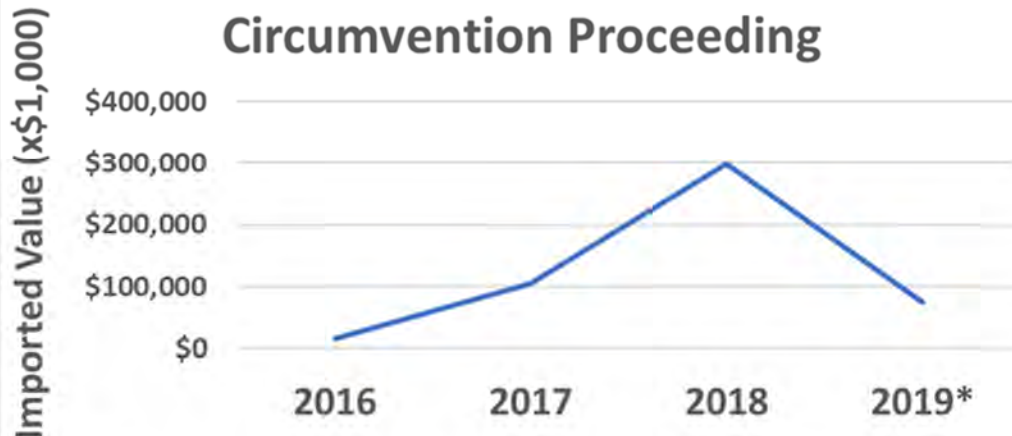
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EXHIBIT 6

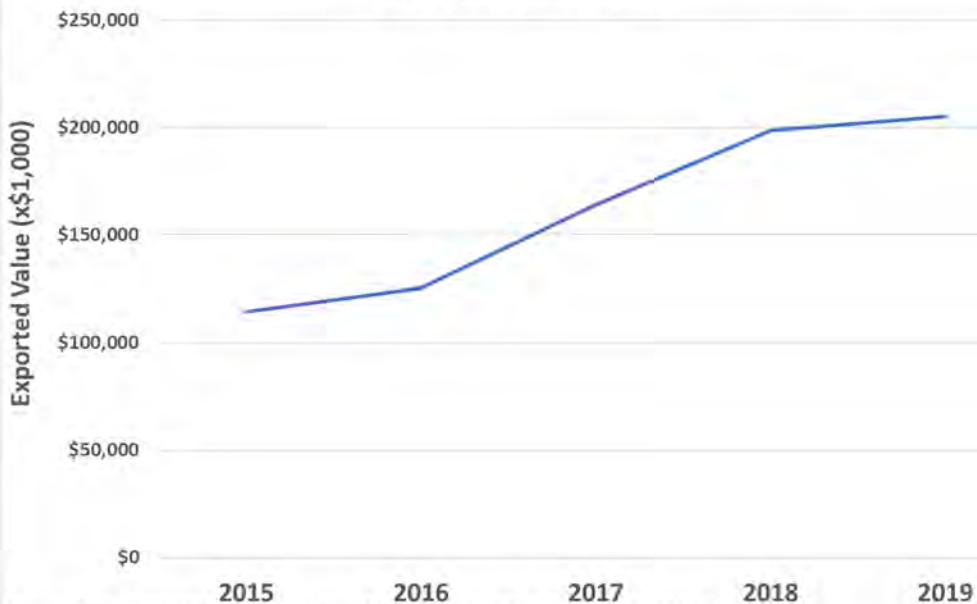


U.S. Imports of Softwood Plywood Surged After the Investigation, But Have Dropped Since the Circumvention Proceeding



Source: U.S. International Trade Commission, Dataweb, for HS code 4412.39. 2019 data annualized

Chinese Exports of HWPW to Vietnam Have Effectively Doubled Since 2015



Source: Trade Data Monitor for HS codes 4412.31, 4412.32, 4412.33, and 4412.34

EXHIBIT 7

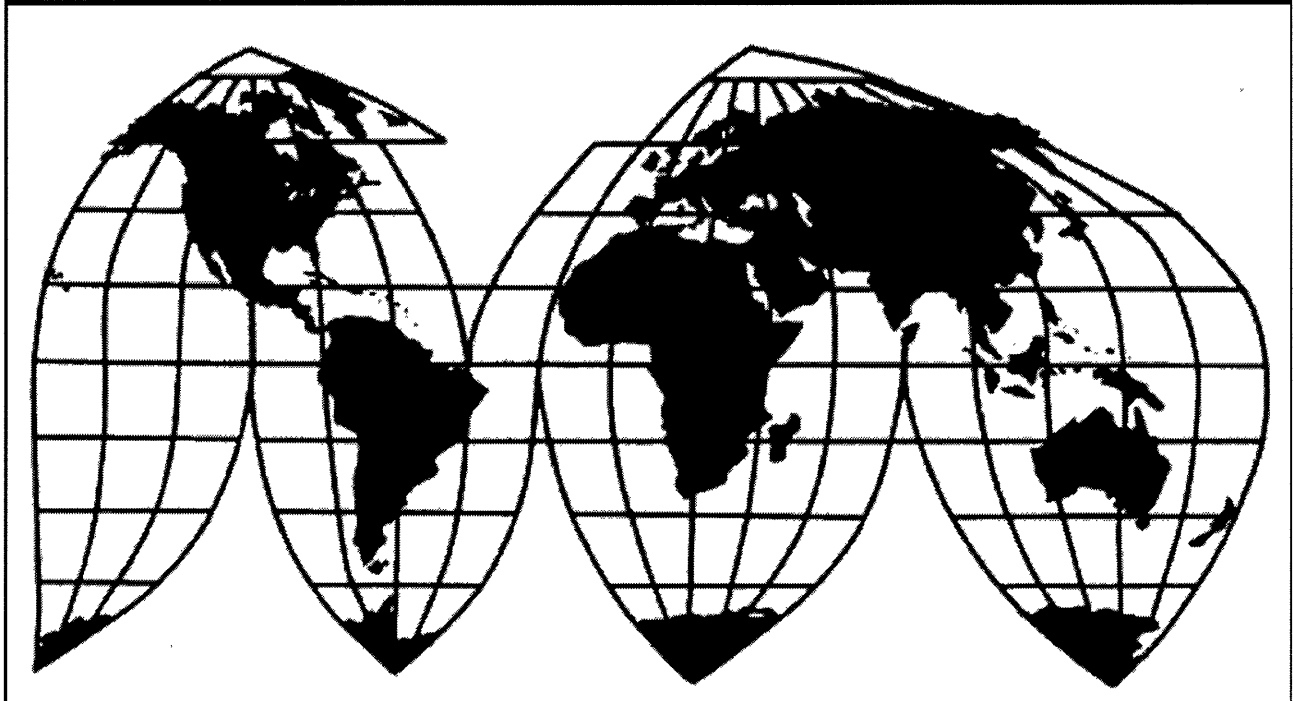
Hardwood Plywood from China

Investigation Nos. 701-TA-565 and 731-TA-1341 (Final)

Publication 4747

December 2017

U.S. International Trade Commission



Washington, DC 20436

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Hardwood Plywood from China

Investigation Nos. 701-TA-565 and 731-TA-1341 (Final)

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December 2017

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-565 and 731-TA-1341 (Final)
Hardwood Plywood from China

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of hardwood plywood from China, provided for in subheadings 4412.10, 4412.31, 4412.32, 4412.39, 4412.94, and 4412.99 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV"), and to be subsidized by the government of China.²

BACKGROUND

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective November 18, 2016, following receipt of a petition filed with the Commission and Commerce by the Coalition for Fair Trade of Hardwood Plywood and its individual members.³ The final phase of the investigations was scheduled by the Commission following notification of a preliminary determinations by Commerce that imports of hardwood plywood from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on July 11, 2017 (82 FR 32011). The hearing was held in Washington, DC, on October 26, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² The Commission also finds that imports subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the remedial effect of the antidumping duty order or the countervailing duty order on hardwood plywood from China.

³ Columbia Forest Products, Greensboro, North Carolina; Commonwealth Plywood Inc., Whitehall, New York; Murphy Plywood Co., Eugene, Oregon; Roseburg Forest Products Co., Roseburg, Oregon; States Industries, Inc., Eugene, Oregon; and Timber Products Company, Springfield, Oregon.

Hardwood and decorative plywood is a wood panel product made from gluing two or more layers of wood veneer to a core which may itself be composed of veneers or other type of wood material such as medium density fiberboard (“MDF”), particleboard, lumber, or oriented strand board. The outer ply or face veneer is typically the identifying species for the hardwood plywood product and is the side of the product that will be visible in most uses. Many hardwood species are used in hardwood plywood manufacturing including oak, birch, maple, poplar, cherry, and tropical varieties. Hardwood plywood includes at least one face or back veneer that is a hardwood species, but may have a face or back veneer and/or other layers of veneer of softwood species.¹⁶ Hardwood plywood is manufactured in a variety of thicknesses and dimensions.¹⁷

Hardwood plywood products are differentiated by species, quality of veneer, overall thickness, number of plies, type of core (veneer, particleboard, MDF, or other), and the type of adhesive used in the manufacturing process. Grades of hardwood plywood are determined by criteria such as number and size of knots, visible decay, splits or insect holes, surface roughness, and other defects. Grades are assigned to both the face and back veneers. Plywood with the highest face grades is used in applications where appearance is a primary consideration. Most hardwood plywood produced in the United States is graded according to a consensus-based voluntary standard developed by the Hardwood Plywood and Veneer Association (“HPVA”).¹⁸

C. Domestic Like Product Analysis

In our preliminary determinations, we defined a single domestic like product, coextensive with the scope of these investigations.¹⁹ We found that all hardwood plywood consisted of two or more layers of wood veneer glued to a core and was used in a range of interior applications.²⁰ Hardwood plywood was made using either a one-step or a two-step

(...Continued)

Fed. Reg. 53460, 53470 (Nov. 16, 2017); *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, 53476 (Nov. 16, 2017).

¹⁶ CR at I-15, PR at I-13.

¹⁷ CR at I-15-16, PR at I-13. The most common thicknesses range from 1/8 inch (3.2 mm) to 1 inch (25.4 mm), depending upon customer requirements and the intended end use. The most common panel dimensions are 48 inches by 72 inches (1219 mm x 1829 mm), 48 inches by 96 inches (1219 mm x 2438 mm), and 48 inches by 120 inches (1219 mm x 3048 mm), but hardwood plywood is also sold in smaller and larger sheet sizes. *Id.*

¹⁸ CR at I-15-16, PR at I-14. The highest and clearest grades of hardwood plywood carry an “AA” or “A” face grade, followed by “B,” “C,” “D,” and “E” as more knots, blemishes or other defects are considered in the grading process. The HPVA standard also assigns back veneers numerical grades from “1” to “4,” and certain other letter grades to internal veneers. However, not all hardwood plywood sold in the United States conforms to the HPVA standard. *Id.*

¹⁹ *Hardwood Plywood from China*, Inv. Nos. 701-TA-565 and 731-TA-1341, USITC Pub. 4661 (January 2017) (“Preliminary Determinations”) at 9.

²⁰ Preliminary Determinations, USITC Pub. 4661 at 8.

- 4412.39: Other plywood {not of bamboo or in 4412.31-4412.32} consisting solely of sheets of wood, each ply not exceeding 6 mm in thickness; with both outer plies of coniferous wood (general rates of duty free, 3.4 percent, 5.1 percent, or 8 percent ad valorem).
- 4412.94: Blockboard, laminboard and battenboard (general rates of duty free, 3.4 percent, 5.1 percent, or 8 percent ad valorem).
- 4412.99: Other {plywood, veneered panels and similar laminated wood} (general rates of duty free, 3.4 percent, 5.1 percent, or 8 percent ad valorem).

THE PRODUCT

Description and applications

Hardwood plywood is a wood panel product made from gluing two or more layers of wood veneer²⁴ to a core²⁵ which may itself be composed of veneers or other type of wood material such as medium density fiberboard ("MDF"), particleboard, lumber, or oriented strand board ("OSB").²⁶ The outer ply or face veneer is typically the identifying species for the hardwood plywood product and is the side of the product that will be visible in most uses. A wide variety of hardwood species is used in hardwood plywood manufacturing including oak, birch, maple, poplar, cherry, and tropical varieties. Hardwood plywood includes at least a face or back veneer that is of a hardwood species. However, it may have a face or back veneer and/or other layers of veneer of softwood species.

Hardwood plywood is manufactured in a variety of thicknesses, with the most common ranging from 1/8 inch (3.2 mm) to 1 inch (25.4 mm), depending upon customer requirements and the intended end use. The most common panel dimensions are 48 inches by 72 inches (1219 x 1829 mm), 48 inches by 96 inches (1219 x 2438 mm), and 48 inches by 120 inches (1219 x 3048 mm), but hardwood plywood is also sold in smaller and larger sheet sizes.²⁷

The distinguishing characteristic of hardwood plywood products is that they are used in interior and non-structural applications. Hardwood plywood is commonly chosen for decorative and aesthetic reasons, for use in products such as furniture, kitchen cabinets, architectural woodwork, wall paneling, manufactured homes, and recreational vehicles ("RVs"). The product is almost always used in interior applications where moisture exposure is not an issue, although some hardwood plywood is made specifically for marine applications. Its construction process gives it dimensional stability and makes it resistant to expansion and contraction caused by humidity. Hardwood plywood is also used in some construction-related applications where

²⁴ Hardwood plywood includes at least a face or back veneer that is of a hardwood species.

²⁵ A plywood substrate is commonly referred to as the core, blank, or platform.

²⁶ Depending on the application, the configuration of the core may take structural requirements, thickness, screw-holding ability, surface smoothness, and other characteristics into account.

²⁷ Petitions, pp. 6-7.

structural strength is not a requirement, such as for providing a flat, stable underlayment for a finished flooring product.

Hardwood plywood products are differentiated by species, quality of veneer (e.g. grade), thickness, number of plies, type of core (veneer, particleboard, MDF, or other), and the type of adhesive used in the manufacturing process. Grades of hardwood plywood are determined by such things as number and size of knots, visible decay, splits or insect holes, surface roughness, and other defects. Grades are assigned to both the face and back veneer. Plywood with the highest face grades is used in applications where appearance is a primary consideration. Most hardwood plywood produced in the United States is graded according to a consensus-based voluntary standard developed by the Hardwood Plywood and Veneer Association (“HPVA”); an American National Standard Institute (“ANSI”) accredited standards developer.²⁸ The highest and clearest face grades of hardwood plywood carry an “AA” or “A” grade, followed by “B,” “C,” “D,” and “E” as more knots, blemishes, or other defects are considered in the grading process. The HPVA standard also assigns back veneers numerical grades from “1” to “4,” and certain other letter grades to internal veneers. End use and specie dictates veneer thickness.²⁹ However, not all hardwood plywood sold in the United States conforms to the HPVA standard.^{30 31}

Manufacturing processes

The production of hardwood plywood begins with the conditioning and debarking of logs of a size and quality suitable for cutting or slicing to make veneer. Veneer is a thin sheet of wood that has been rotary cut, sliced, or sawed from a log, round bolt, or flitch (unfinished plank). Veneer quality logs (commonly called “peeler logs”³²) are generally of higher quality and value than those used for other wood products. Wood is a natural material, so the quality of veneer will vary by species and by any given log. Each tree—even within the same specie—is influenced by many factors, including weather, soil quality, and the presence of insects. Approximately *** percent of a log that is rotary cut for veneer in the United States will yield C

²⁸ The current consensus-based ANSI/HPVA standard for Hardwood and Decorative Plywood is labeled “American National Standard for Hardwood and Decorative Plywood ANSI/HPVA HP-1-2016.” Petitions, p. 8 and exh. I-18.

²⁹ The HPVA standard states that *** American National Standard for Hardwood and Decorative Plywood ANSI/HPVA HP-1-2016, app. C. Petitioners’, post conference brief, exh. 11.

³⁰ Respondents state that there is no standard grading system used by the Chinese producers. AAHP posthearing brief, p. 15.

³¹ The International Wood Products Association (“IWPA”)—an international trade association representing North American companies and trade organizations engaged in importing hardwoods and softwoods from sustainably managed forests—has designed voluntary international grading rules and standards intended to be used by North American buyers, distributors, and world suppliers on imported veneer products and platforms. The current IWPA standard is labeled “Imported Rotary Cut Veneer and Platforms Standard (IWPA-2010).”

³² Logs from which veneer is rotary cut on a lathe, intended for the production of plywood.

grade or below, *** percent will yield A or AA grade veneer, and the balance will yield B grade material.³³ The average amount of rotary cut face grade yield differs by species.³⁴ *** U.S. birch logs are rotary cut, whereas *** percent of maple and *** percent of red oak are rotary cut. Respondents stated that Chinese hardwood plywood producers primarily rotary cut Chinese birch logs, which have a smaller diameter than U.S. birch logs, and consequently yield a much higher percentage of lower grade veneers.³⁵

Harvested logs, bolts, and flitches are kept moist while they are stored in a yard to prevent dry out and end checking.³⁶ The heating of veneer logs in a vat or steam chamber temporarily softens wood, making it more pliable. This also smooths the surface and reduces the likelihood of knife checks. The logs are then sawn to the desired length and debarked.

The quality and yield changes based upon the decision to rotary cut or use one of several slicing techniques. Rotary-cut veneer is made by transferring the conditioned (moist and warm) log to a lathe charger that positions it mechanically for optimal slicing. The charger holds the log as it is placed into the lathe that spins the log against a blade at very high speed. This makes a continuous layer of thin veneer that is then cut to the desired length and width. Rotary cutting produces a variegated grain pattern, yields the most veneer per log, and is generally the least expensive of wood veneers.³⁷ In 2016, approximately *** percent of unfinished U.S. hardwood plywood panel production was manufactured using rotary-cut veneer.^{38 39}

In contrast, sliced or sawed veneers are thin sheets that are cut from conditioned lumber, flitches, or blocks of wood. Slicing yields less per log than the rotary-cut method, results in a more distinct repeating pattern—the cathedral and straight grain patterns—and is often used to make higher grades and specialty plywood. Sliced or sawed veneers are cut into variable lengths and widths depending upon the form and dimension of the wood’s raw material.

Whether rotary-produced or sliced, veneer is cut to thicknesses ranging from as thin as 0.01 inch (0.25 mm) to greater than 0.25 inch (6.35 mm). The sheets are loaded into dryers with forced hot air which gradually lowers the moisture content of the veneer to 6 to 12 percent. Veneer is graded and sorted by quality prior to use in hardwood plywood manufacturing. Face

³³ For birch, the average yield of AA and A grade is *** percent and C grade and below is *** percent; for maple, the average yield of AA and A grade is *** percent and C grade and below is *** percent; and for red oak, the average yield of AA and A grade is *** percent and C grade and below is *** percent. Staff telephone interview with ***.

³⁴ For birch, the average face grade yield is *** percent; for maple, the average face grade yield is *** percent; for red oak, the average face grade yield is *** percent; for cherry, the average face grade yield is *** percent; and for other (including ash, pine, alder, poplar, and others), the average face grade yield is *** percent. Staff telephone interview with ***.

³⁵ Hearing transcript, pp. 164-165 (Dougherty).

³⁶ End checking and splitting are related to the reduction of the surface moisture content to a value so low that it causes drying stresses that will pull the wood apart.

³⁷ HPVA, “Hardwood Plywood Handbook,” 2004, pp. 8-11.

³⁸ HPVA Annual Statistical Report for Calendar Year 2016.

³⁹ Most U.S. plywood panels (***) are unfinished. Staff telephone interview with ***.

veneers are often, but not always, produced at a separate facility or by a different company than the manufacturer of hardwood plywood.

U.S. producers generally employ a “one-step” process, which is a continuous system from the log to the finished product. In the one-step process, face and back veneers are glued and pressed at the same time as the core veneers. The other prevalent system is referred to as a “two-step” process. The core is manufactured separately in the first step, after which it is patched and sanded. In the second step, the face and back veneers are applied to the core using a press. Hearing testimony indicates that because the two-step process requires double the handling to that of the one-step process, the one-step process is less costly.⁴⁰ Some U.S. producers use the two-step process and others use either process, depending on the product ordered.⁴¹ Chinese producers use the two-step process.⁴²

Generally, the basic steps in the manufacturing process are similar for both imported and domestic hardwood plywood. The U.S. producers use both the one-step and two-step processes, while the Chinese producers usually use the two-step process.

In many cases, face veneers that are of a particular species and grade are purchased from other veneer producers and are then glued onto the core material to complete the manufacturing process. Prior to pressing, the face and core veneers are dried, sorted for defects, repaired or patched, taped or stitched to make larger sheets from smaller pieces, and trimmed. The veneers are stacked with their grain in alternating directions—crossbands—in order to provide strength and stability to the finished product.⁴³ The thickness of each layer must balance around the center, but the core, crossbands, and the face and back can be different thicknesses and materials.⁴⁴ Depending on the manufacturing process, a cold press may be used to fabricate the several plies of veneer together prior to being hot pressed to glue the veneers together.⁴⁵ The thickness and number of plies depends upon the product ordered.

After pressing and trimming, panels are sanded and, in some cases, finished depending on the end use. Finishing can involve some degree of texturing for a particular appearance, grooving, and/or staining or coloring. Typical finishes include ultra-violet light cured

⁴⁰ Hearing transcript, pp. 65 and 101 (Caine).

⁴¹ ***. Hearing transcript, pp. 49-50 (Thompson).

⁴² Respondents confirm that since Chinese hardwood plywood producers use veneers that are too thin to use the one-step method, it is typically made using the two-step process. Posthearing brief, AAHP, p. 40, and exh. B, pp. 7-8; Chinese respondents, posthearing brief, p. 5; Hearing transcript, pp. 167-169 (Simon) and pp. 202-204 (Ran).

⁴³ The crossbands are the stacked veneer sheets whose grain is at alternating directions to one another (when there are multiple crossband layers) and the face veneer. Plywood involves an odd number of layers. Its balanced construction and crossband layers provide dimensional stability; hardwood plywood does not warp, shrink or swell as much as lumber and has uniform strength both with and across the grain.

⁴⁴ Each layer from the core must be of equal thickness. For example, the top and bottom crossbands must be of equal thickness and so must the face and back veneers.

⁴⁵ See Colombia Forest Products, “Hardwood Plywood: How It’s Made” at: <https://www.youtube.com/watch?v=LrCt5kJwcyw>.

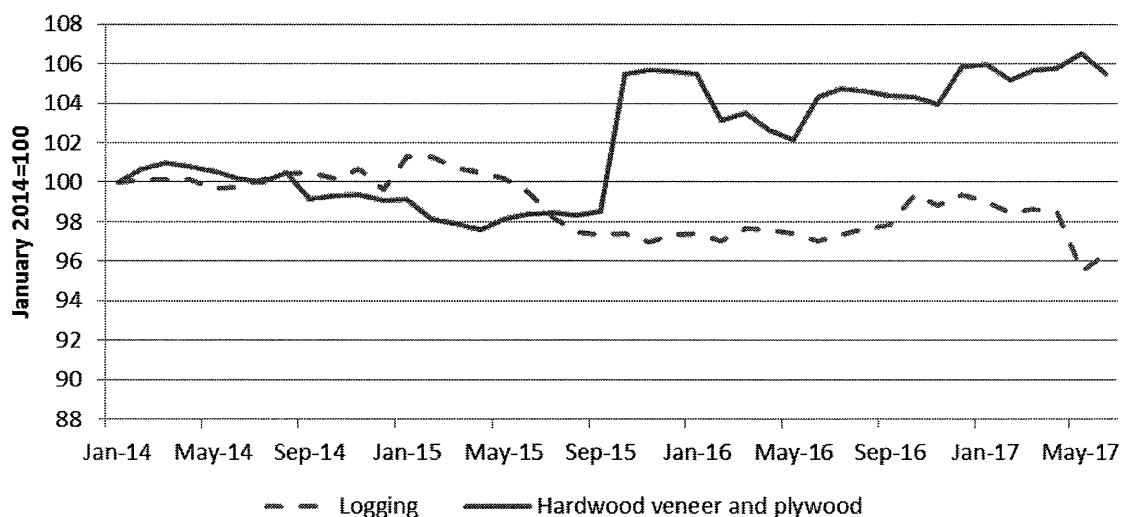
PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

Raw material costs remained relatively constant, decreasing only slightly from 79.4 percent of cost of goods sold (“COGS”) in 2014 to 78.8 percent in 2016. The major raw material costs for hardwood plywood are the hardwood veneer and other plywood used in its production. Logging prices decreased slightly by about 4 percent between January 2014 and June 2017, while hardwood veneer and plywood prices declined by nearly 2 percent from January 2014 until September 2015 but increased by nearly 8 percent by June 2017 (figure V-1).

Figure V-1
Logging and hardwood veneer and plywood: Producer price indices, monthly, January 2014-June 2017



Source: Bureau of Labor Statistics, Producer Price Index Industry Data, <https://data.bls.gov/cgi-bin/dsrv?pc>, retrieved September 13, 2017.

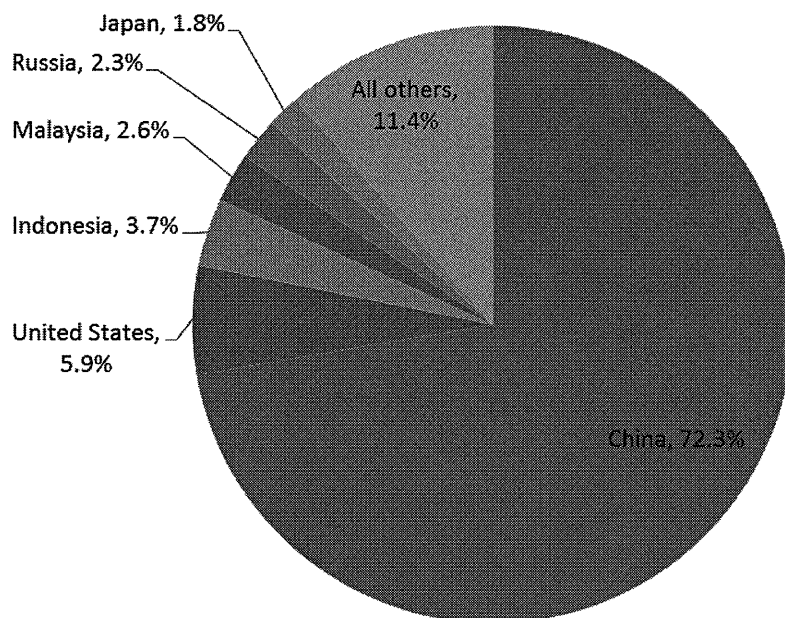
U.S. inland transportation costs

All responding U.S. producers and most responding importers (56 of 65) reported that they typically arrange transportation to their customers, and importers reported that they most commonly ship to their customers from storage. U.S. producers reported that their U.S. inland transportation costs ranged from 4 to 12 percent while most importers reported costs of 1 to 5 percent.

INFORMATION ON NONSUBJECT COUNTRIES

Besides the United States and China, other large producers of plywood products include Indonesia, Malaysia, Russia, and Japan. The Food and Agriculture Organization (“FAO”) collects production data for plywood.²⁵ However, these data include not only hardwood plywood but also other wood products, such as structural plywood and multilayered wood flooring; they provide only a rough approximation of major country production of hardwood plywood. In 2015, the most recent year available, global production of plywood totaled 156.9 million cubic meters, or approximately 5.54 billion cubic feet.²⁶ Figure VII-1 shows that China was, by far, the largest producer, accounting for 72.3 percent of global production of plywood. The United States was the second largest producer, accounting for 5.9 percent of global production. Indonesia, Malaysia, Russia, and Japan each accounted for less than 5 percent of global production.

Figure VII-1
Plywood production, by major country, 2015



Source: Food and Agriculture Organization of the United Nations. *FAO Yearbook, Forest Products, 2011-2015*, 2017, pp. 111-3.

²⁵ These data on plywood include HS subheadings 4412.31, 4412.32, 4412.39, 4412.94, and 4412.99. Food and Agriculture Organization of the United Nations. *FAO Yearbook, Forest Products, 2011-2015*, 2017, p. xxvi.

²⁶ Cubic meters (m³) are converted to cubic feet (ft³) using a factor of 35.3147 ft³ per m³.

Table VII-9 presents the largest global export sources of plywood and wood flooring products during 2014-16.²⁷ China accounted for the largest share of global exports of plywood and wood flooring products in 2016 (36.2 percent), followed by Indonesia (15.2 percent), Malaysia (7.2 percent), and Russia (6.5 percent). These data further show that global exports decreased by 11.28 percent from 2014 to 2016. During the last three years, the United States' share decreased slightly. Other countries on this list also lost export market share (including Malaysia, Russia, and Finland). At the same time, China has increased its share of these exports from 35.3 percent of the total in 2014 to 36.2 percent in 2016. Other growing sources of supply during this period include Indonesia, Canada, Brazil, Chile, Germany, Latvia, and Spain.

²⁷ The trade data presented are compiled from HS subheadings 4412.10, 4412.31, 4412.32, 4412.39, 4412.94, and 4412.99, which contain some out-of-scope merchandise including bamboo plywood, multilayered wood flooring, structural plywood, and wood products with a softwood veneer.

Table VII-9

Plywood and wood flooring products: Global exports by major source, 2014-16

Exporter	Calendar year		
	2014	2015	2016
	Value (1,000 dollars)		
United States	420,856	351,281	351,013
China	5,813,705	5,487,696	5,275,773
All other major reporting exporters.--			
Indonesia	2,372,471	2,341,923	2,211,610
Malaysia	1,586,222	1,201,616	1,053,600
Russia	1,173,867	989,735	945,294
Finland	708,899	593,547	569,018
Brazil	467,760	482,206	478,097
Chile	327,760	349,544	348,305
Canada	251,298	279,253	327,969
Germany	285,865	253,736	278,660
Latvia	240,194	220,349	255,166
Spain	222,620	219,810	241,685
All other	2,578,494	2,379,504	2,256,729
Total exports	16,450,013	15,150,200	14,592,919
	Share of value (percent)		
United States	2.6	2.3	2.4
China	35.3	36.2	36.2
All other major reporting exporters.--			
Indonesia	14.4	15.5	15.2
Malaysia	9.6	7.9	7.2
Russia	7.1	6.5	6.5
Finland	4.3	3.9	3.9
Brazil	2.8	3.2	3.3
Chile	2.0	2.3	2.4
Canada	1.5	1.8	2.2
Germany	1.7	1.7	1.9
Latvia	1.5	1.5	1.7
Spain	1.4	1.5	1.7
All other	15.7	15.7	15.5
Total exports	100.0	100.0	100.0

Source: Official exports statistics under HS subheadings 4412.10, 4412.31, 4412.32, 4412.39, 4412.94, and 4412.99, which contain some out-of-scope merchandise including bamboo plywood, multilayered wood flooring, structural plywood, and wood products with a softwood veneer, as reported by various national statistical authorities in the GTIS/GTA database, accessed August 4, 2017.

EXHIBIT 8



Industries

Vietnam suspects China hand in plywood export surge

By **Dat Nguyen** September 4, 2019 | 05:53 pm GMT+7

Vietnam suspects that a surge in plywood exports to the U.S. is actually coming from Chinese firms looking to avoid trade war tariffs.

There are signs that Vietnamese businesses are involved in exporting Chinese plywood to the U.S, the Ministry of Industry and Trade said, adding that the U.S. is investigating American importers suspected of [buying plywood products from China](#).

Plywood is one of the Chinese products on which U.S. President Donald Trump has imposed a 25 percent tariff.

Vietnam's plywood exports to the U.S. in the first quarter rose 95 percent year-on-year to \$47 million, according to Vietnam Customs. Imports from China rose 37 percent in the same period to \$61 million, accounting for 84 percent of all plywood imports.

Vietnam Customs has red flagged four local wood producers for the sudden surge in exports to the U.S. this year, suspecting them of having imported plywood products from China.

It has also suggested a regulation which requires Vietnamese producers to register their plywood export batches so that they can be traced.

Plywood exports to the U.S. last year surged 2.7 times from 2017 to \$190 million, according to the Vietnam Timber and Forest Product Association.

Vietnam exported \$650 million worth of plywood last year, up 76.5 percent from 2017,

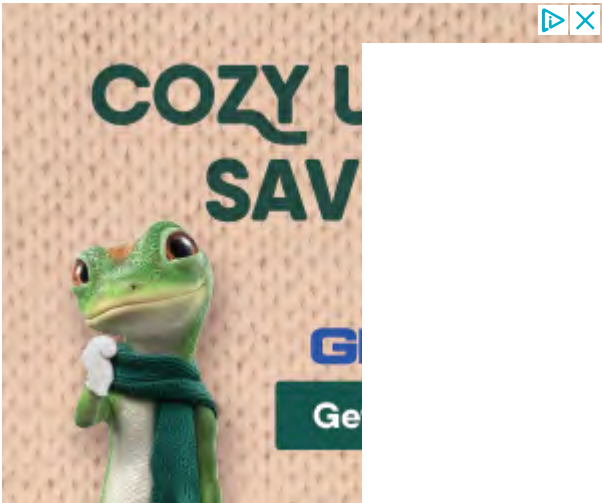
Origin fraud threatens duties on vietnamese wood, seafood exports to US

Vietnam to crack down on steel of fraudulent origins

f

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EXHIBIT 9

**ENTIRE EXHIBIT
NOT CAPABLE OF
PUBLIC SUMMARY**

EXHIBIT 10

DECLARATION

I, [], declare and state as follows:

1. I am currently employed as [] and have worked in the domestic hardwood plywood industry for more than [] years. As a [], I worked on trade issues involving hardwood plywood and specifically trade flows of illegally traded hardwood plywood panels from China into the U.S. market. In my [], I have maintained extensive knowledge regarding trade flows of illegally traded hardwood plywood in parallel with an in-depth understanding of the industry's current practices with respect to production, purchasing patterns, costing, pricing and sales strategy.
2. Since the Orders were imposed on hardwood plywood from China, Chinese producers/exporters of hardwood plywood have engaged in aggressive efforts to transship their products through third-countries to evade the duties.
3. Among these efforts to circumvent the antidumping and countervailing duty orders on hardwood plywood from China include shipping hardwood plywood through Vietnam. Specifically, those in the industry understand that the primary components of hardwood plywood, the face veneers, back veneers, and core veneers, are being manufactured in China and then shipped to Vietnam to be assembled and finished prior to importation into the United States to avoid the antidumping and countervailing duties. Chinese producers and exporters are shipping the merchandise to Vietnam in two forms, either with an assembled core and face and back veneers, or individual core veneers for layup before assembly and face and back veneers.

4. The finished plywood being imported from Vietnam appears to be essentially identical to hardwood plywood from China and is used for the same applications. For example, some of the hardwood plywood products being imported from Vietnam look identical to Chinese hybrid poplar core harvested at Chinese plantations. Based on industry knowledge, however, Vietnam does not have substantive poplar plantations. In addition, I understand that there has not been a substantial increase in facilities in Vietnam for the production of hardwood plywood.
5. It is my understanding, as well as many others in the industry, based on U.S. market intelligence, that certain Chinese producers are completing the production of hardwood plywood up through the completion of the face veneers, back veneers, and core veneers in China. Specifically, of the entire production process for hardwood plywood, the processes occurring in China include all of the following: logs are being sourced, stored, conditioned, cut, and debarked, after which the veneers are peeled. After these steps, the veneers are cut and dried, and as necessary, repaired and taped or stitched to make larger sheets. I understand that entities in Vietnam are merely assembling the face and back veneers and the core material produced in China and finishing the plywood before exporting to the United States. Specifically, the only processes occurring in Vietnam are the layup of the veneers as necessary (in the case of when individual core veneers are shipped from China) and the application of glue and assembly of the veneers using a cold press and hot press, as well as any final trimming, sanding, and/or finishing.
6. The overwhelming majority of the production process and costs are accounted for by the raw materials and specifically, the production of the face and back veneers and core

material. The manufacturing process up through the production of the veneers starting from the logs is much more technologically complex and requires more advanced equipment and plant space than what is necessary for assembly and finishing. In particular, the production process up through the peeling and production of the veneers is the most significant and complex part of the process. The minor processing that appears to be occurring in Vietnam would require relatively limited equipment and workers compared to the production activities in China. The equipment used for assembly and finishing in Vietnam likely include only a gluing machine, a cold press and hot press to glue the veneers together, and some equipment for finishing processes, such as trimming and sanding.

7. Based on my experience in the industry, below is an estimated cost breakdown for a standard hardwood plywood product for hardwood plywood imported from Vietnam assembled with face and back veneers and a core produced in China.

Estimated Cost Breakdown for [] Panel Manufactured with Chinese Materials	Cost FOB Vietnam = \$[] / MSF
Chinese Materials (Chinese Birch Face and Back Veneers, Chinese Core, and Other Costs) and Labor	[] / MSF = [] of Total Cost
Vietnamese Materials (Other Costs) and Labor (Layup, Finishing, and Packaging):	[] / MSF = [] of Total Cost
*Other Costs include Glue, Waste, Manufacturing Materials which may be incurred in China and/or Vietnam. A range is being provided for the estimated costs incurred in China and Vietnam, respectively, to account for Other Costs.	

8. While the precise percentage of Chinese hardwood plywood that is transshipped through Vietnam versus the exact percentage of hardwood plywood that is legitimately produced in Vietnam from start to finish may vary, consistent with other Chinese efforts to evade/circumvent the Orders on Chinese hardwood plywood, I believe that the percentage of hardwood plywood that is transshipped through Vietnam is significant.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

[]

Date: February 25, 2020

[]

EXHIBIT 11

DOC Inv. Nos. A-570-051 & C-570-052
USITC Inv. Nos. 701-TA-____ and 731-
TA-____ - ____ (Preliminary)

Total Pages: 265

Investigation

Business Proprietary Information
removed on pages 3, 17, 21-25, 27-36,
the Table of Exhibits, and Exhibits I-3,
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and I-18

PUBLIC VERSION

**BEFORE
THE INTERNATIONAL TRADE ADMINISTRATION
UNITED STATES DEPARTMENT OF COMMERCE
AND
THE UNITED STATES INTERNATIONAL TRADE COMMISSION**

**CERTAIN HARDWOOD PLYWOOD PRODUCTS
FROM THE PEOPLE'S REPUBLIC OF CHINA**

**PETITION FOR THE IMPOSITION
OF ANTIDUMPING AND COUNTERVAILING DUTIES PURSUANT TO
SECTIONS 701 AND 731 OF THE TARIFF ACT OF 1930, AS AMENDED**

VOLUME I

COMMON ISSUES AND INJURY

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in Hardwood Plywood*

November 18, 2016

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These Petitions are presented on behalf of the Coalition for Fair Trade in Hardwood Plywood (the “Coalition”). The Coalition is comprised of Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, Roseburg Forest Products Co., States Industries Inc., and Timber Products Company (collectively, “Petitioners”). Petitioners allege that certain hardwood plywood products imported from China are being or are likely to be sold at less than normal value (hereinafter “LTNV”) within the meaning of Section 731 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1671 and § 1673 (hereinafter “the Act”). Petitioners further allege that hardwood plywood imported from China is subsidized within the meaning of Section 701 of the Act. These unfairly traded imports have materially injured the United States domestic industry producing hardwood plywood and threaten to cause further material injury if remedial action is not taken. These Petitions contain information reasonably available to Petitioners in support of these allegations.

Separate volumes regarding the allegations of dumping by subject producers, as well as countervailable subsidies provided to subject producers, are being filed simultaneously at the U.S. Department of Commerce (the “Department”) and the U.S. International Trade Commission (the “Commission”). Petitioners request that antidumping and countervailing duties be imposed to offset the dumping and subsidy margins detailed in the individual antidumping and countervailing duty volumes.

I. COMMON ISSUES

This section contains information required in antidumping and countervailing duty petitions by the regulations of the Department¹ and the Commission.²

¹ 19 C.F.R. §§ 351.202(b)(1)-(b)(9).

² 19 C.F.R. § 207.11.

a face veneer of bamboo or composed entirely of bamboo; (4) plywood which has a shape or design other than a flat panel, with the exception of any minor processing described above; (5) products made entirely from bamboo and adhesives (also known as “solid bamboo”).

2. Technical Characteristics and Uses

Hardwood plywood is a panel 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 finished product.⁸ The term “hardwood plywood,” as used in this scope definition, incorporates products referred to as “decorative plywood.” Notwithstanding the term “hardwood,” a hardwood plywood panel can be composed of one or more species of hardwoods, softwoods, or bamboo (in addition to other materials that are used for the core, as detailed below). Products with one veneer (face or back) of bamboo are treated as subject in the list of HTS codes above, as they were in the prior investigation on hardwood plywood. Moreover, the HPVA treats bamboo as a hardwood., and both the HP-1-2016 and CARB/EPA standards define bamboo faces as hardwood plywood.

Hardwood plywood has a wide variety of uses, including but not limited to wall panels, kitchen cabinet components, seat backs, table and desk tops, drawers sides, furniture components, recreational vehicle (“RV”) and trailer components, floor underlayment, and as the raw material for certain engineered (*i.e.*, multilayered) wood flooring. Hardwood plywood is intended for interior (*i.e.*, indoor) uses.⁹

Hardwood plywood is primarily manufactured as a panel. Some of the most common panel sizes are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x

⁸ See *id.* at 5.

⁹ *Id.* at 7.

3048 mm (48 x 120 inches).¹⁰ However, these panels are often cut-to-size by the manufacturer in accordance with a customer's requirements, or made to other sizes. The most common thicknesses of the panels range from 3.2 mm (1/8 inch) to 25.4 mm (1 inch). Regardless of the actual dimensions, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

Hardwood plywood is comprised of a core sandwiched between two veneers. A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. The face veneer is the exposed veneer of a plywood panel. It is generally of a superior grade to that of the other veneer of the plywood panel (*i.e.*, as opposed to the inner veneers).¹¹ Depending upon material costs and competitive market forces, exposed decorative veneers are cut in a wide range of thicknesses. The vast majority of exposed decorative veneers are cut in the range of 1/100" / .25 mm to 1/28" / .91 mm. If both faces of the plywood are to be exposed, both veneers will be face veneers, and typically will be of the same grade.

The core of hardwood plywood consists of the layer or layers of material(s) that are situated between the face and back veneers. The core may be composed of a number of materials, including but not limited to veneers of hardwood or softwood, particleboard, medium-density fiberboard ("MDF"), lumber, oriented strand board ("OSB"), or a combination of two or more core types.¹² Veneer core "platforms" are included in the definition of subject merchandise. A veneer core platform is defined as two or more wood veneers that form the core of an otherwise completed hardwood plywood product (*i.e.*, a hardwood plywood product to which the outer (face and back) veneers have not yet been affixed).

¹⁰ See *id.* at 5.

¹¹ *Id.* at 5.

¹² *Id.* at 6.

Hardwood plywood is generally described by the number of veneers; overall thickness; width; length; species of face veneer; grade of face and back veneer; thickness of face veneer; pattern or type of cut of face veneer; and type of core.¹³ Because hardwood plywood is typically used for decorative purposes, the appearance of the face veneer, and, where exposed, the back veneer, is often an important feature. For this reason, grades are assigned to the face and back veneers. The grade reflects such characteristics as color streaks or spots, color variations, burls, and pin knots. Some U.S. manufacturers offer proprietary or custom grades. However, the consensus grading standards are set forth in ANSI/HPVA HP-1 2016.¹⁴ Face grades are delineated as AA, A, B, C, D or E (listed in descending order). Back grades are delineated as 1, 2, 3 or 4 (listed in descending order).

Hardwood plywood included within the definition of subject merchandise may be “unfinished” or “prefinished.” An unfinished product has not had a surface coating applied to the face and/or back veneers to protect the face and/or back veneers from wear and tear. Prefinished products, on the other hand, have such a surface coating. Typical finishes include, but are not limited to, ultra-violet light cured polyurethanes, oil or oil-modified or water-based polyurethanes, wax, epoxy-ester finishes, and moisture-cured urethanes. The face and/or back veneers of hardwood plywood may be sanded, smoothed or given a “distressed” appearance through such methods as handscraping or wire brushing. The face ply may also be stained, to achieve a particular color. The scope includes coatings that may cause the grain, texture or

¹³ *Id.* at 7. While some customers may specify the thickness of the face veneer, this thickness is not generally considered significant. Rather, to a large extent the thickness of the face veneer is determined by the manufacturing process used, with the one-step process generally resulting in thicker face veneers than the two-step process.

¹⁴ See American Nat’l Standard Institute, ANSI/HPVA HP-1-2016 American National Standard for Hardwood and Decorative Plywood (approved Jan. 12, 2016), attached at Exhibit I-18.

markings of the wood to be obscured, including (but not limited to) paper, aluminum, high pressure laminate (“HPL”), MDF, medium density overlay (“MDO”), and phenolic film.

All hardwood plywood is included within the definition of subject merchandise, without regard to dimensions, including 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 (including hardwoods, softwoods or bamboo); core composition; and face and back grade. As noted above, the product may be “unfinished” or “prefinished.” The face of the product may be sanded, smoothed or stained.

3. Production Methodology

The production of hardwood plywood begins with the debarking of logs of a size and quality suitable for peeling or slicing to make veneer. Veneer quality logs, or peeler logs, are generally of higher quality and value than those used for other wood products, although the quality of veneer from any given log will vary.¹⁵

Rotary-cut veneer is made using a lathe that spins a log against a blade at very high speed. This makes a continuous layer of thin veneer that is then cut to the desired length and width, typically 50” by 100” in order to produce a finished panel of 48” by 96” (4x8 feet). Alternatively, veneers may be produced by slicing or sawing. Sliced or sawed veneers are thin sheets cut from lumber, flitches, or blocks of wood. They are cut into variable lengths and widths depending upon the form and dimension of the wood raw material. Sliced veneer typically has a different grain pattern than rotary - cut veneer and is often utilized to make higher grades and specialty plywood.¹⁶

¹⁵ *Id.* at I-10.

¹⁶ *Id.*

Whether rotary-produced or sliced, veneer is cut to thicknesses ranging from as thin as 0.01 inch (0.25 mm) to greater than 1/4 inch (6.35 mm). Veneer is graded and sorted by quality, then dried prior to use in hardwood plywood manufacturing. Face veneers may be produced at a separate facility or by a different company than the manufacturer of hardwood plywood.¹⁷

Some U.S. producers employ a “one-step” process which is a fully automated, continuous system from the log to the finished product. In the “one-step” process, face and back veneers are glued and pressed at the same time as the core veneers. The other prevalent system, referred to as a “two-step” process, takes face and back veneers and combines them with a “core” or “platform” that is manufactured separately. Some U.S. producers use the “two-step” process.

In many cases, face veneers that are of a particular species and grade are purchased from other veneer producers and are then glued onto the core material to complete the manufacturing process. Prior to pressing, the face and core veneers are dried, sorted for defects, repaired or patched, taped or stitched to make larger sheets from smaller pieces, and trimmed. The veneers are stacked with their grain in alternating directions in order to provide strength and stability to the finished product. Depending on the manufacturing process, a cold press may be used to fabricate the several plies of veneer together prior to being hot pressed to glue the veneers together. The thickness and number of plies depends upon the product.¹⁸

After pressing and trimming, panels are sanded and, in some cases, finished depending on the end use. Finishing can involve some degree of texturing for a particular appearance, grooving, and/or staining or coloring. The process will vary somewhat if a core of composite wood (*e.g.*, MDF or particleboard) or other material is used.¹⁹

¹⁷ *Id.* at I-10-I-11.

¹⁸ *Id.* at I-11.

¹⁹ *Id.*

EXHIBIT 12



A-570-601
Scope: WorldPac German Wheel Hub
Public Document
E&C/OII: AW

September 11, 2019

MEMORANDUM TO: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Melissa G. Skinner *mg*
Director, Office II
Antidumping and Countervailing Duty Operations

FROM: Alex Wood
International Trade Compliance Analyst, Office II
Antidumping and Countervailing Duty Operations

RE: Antidumping Duty Order on Tapered Roller Bearings and Parts
Thereof, Finished and Unfinished, from the People's Republic of
China: Final Scope Ruling on WorldPac Inc.'s Wheel Hub
Assemblies

SUMMARY

On June 14, 2019, WorldPac Inc. (WorldPac) filed a scope ruling request asking that the Department of Commerce (Commerce) determine whether a single tapered roller bearing (TRB) set, incorporated into a completed wheel hub assembly (*i.e.*, product number 38652), manufactured in Germany from other non-Chinese parts, falls outside of the scope of the antidumping duty (AD) order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China (China).¹ Based on our analysis of the scope language of the order, the comments received, and a substantial transformation analysis, we determine that WorldPac's wheel hub assembly, consisting of a Chinese TRB set, a Polish TRB set, a German wheel hub, and a non-Chinese origin shaft seal with anti-lock brake (ABS) sensors ring, produced in Germany is not covered by the scope of the *Order*.

¹ See WorldPac's Letter, "Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Scope Ruling Request for WorldPac, Inc.," dated June 14, 2019 (Scope Ruling Request); see also *Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China*, 52 FR 22667 (June 15, 1987), as amended, *Tapered Roller Bearings from the People's Republic of China; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand*, 55 FR 6669 (February 26, 1990) (*Order*).



BACKGROUND

WorldPac filed its Scope Ruling Request on June 14, 2019.² On July 17, 2019, Commerce determined that additional time was necessary to reach a final ruling regarding the scope in this inquiry request, and Commerce extended the time period for issuing its scope ruling by 45 days, until September 12, 2019.³ No other party submitted comments.

DESCRIPTION OF MERCHANDISE SUBJECT TO THIS SCOPE REQUEST

WorldPac's imported wheel hub assembly (product 38652) consists of one TRB set from China, one TRB set from Poland, one shaft seal with an anti-lock brake sensor from a market economy, and one bare wheel hub from Germany, which are assembled with grease and pressed together in Germany as described in schematic drawings WorldPac provided in its initial submission.⁴ The finished wheel hub assembly is imported and classified under subheading 8482.20.00 of the Harmonized Tariff Schedule of the United States (HTSUS).⁵

SCOPE OF THE *ORDER*

Imports covered by the *Order* are shipments of tapered roller bearings and parts thereof, finished and unfinished, from China; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under HTSUS item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

LEGAL FRAMEWORK

When a request for a scope ruling is filed, Commerce examines the scope language of the order{s} at issue and the description of the product contained in the scope-ruling request.⁶ Pursuant to Commerce's regulations, Commerce may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.⁷ If Commerce determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.⁸

² See Scope Ruling Request.

³ See Letter to WorldPac, "Scope Ruling Request on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Extension of Deadline," dated July 17, 2019.

⁴ See Scope Ruling Request at 3-4 and Attachment 2.

⁵ *Id.* at 4.

⁶ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

⁷ See 19 CFR 351.225(k)(1).

⁸ See 19 CFR 351.225(d).

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) are not dispositive, Commerce will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before Commerce.

An essential element in determining whether a product falls within the scope of an order is the country-of-origin of the product at issue. Commerce uses a substantial transformation analysis to determine a product's country-of-origin when some manufacturing or processing occurs in one country and some occurs in another country. The U.S. Court of International Trade (CIT) has upheld our substantial transformation analysis as the basis for carrying out a country-of-origin examination. In *E.I. DuPont*, the CIT stated that “{t}he ‘substantial transformation’ rule provides a yardstick for determining whether the processes performed on merchandise in a country are of such significance as to require the resulting merchandise to be considered the product of the country in which the transformation occurred.”⁹

INTERESTED PARTY COMMENTS

WorldPac

WorldPac states that its wheel hub assembly is not subject to the scope of the *Order* because it is of German origin.¹⁰ Further, WorldPac argues that, while it incorporates a single Chinese TRB set in its wheel hub assembly, the single Chinese TRB set undergoes significant processing and is substantially transformed into a German wheel hub assembly. WorldPac claims that the value of the Chinese TRB set is minor relative to the value of the wheel hub assembly,¹¹ and that the other components, which comprise a majority of the wheel hub assembly, are sourced from countries other than China and are substantially transformed into a product of Germany.¹² WorldPac argues that, consistent with the decision of U.S. Customs and Border Protection,¹³ its wheel hub assembly is outside of the scope of the *Order*, because the Chinese TRB set is substantially transformed during the manufacturing process in Germany.

COMMERCE'S POSITION

The merchandise subject to an order must be the type of merchandise described in the order and from the particular country covered by the order; if merchandise does not meet both parameters,

⁹ *E.I. DuPont de Nemours & Co. v. United States*, 8 F. Supp. 2d 854, 858 (CIT 1998) (*E.I. DuPont*) (citing *Smith Corona Corp. v. United States*, 811 F. Supp. 692, 695 (CIT 1993)); see also *Bell Supply Co. v. United States*, 888 F.3d 1222, 1229 (Fed. Cir. 2018) (“Commerce is entitled to use the substantial transformation analysis to determination country of origin . . .”).

¹⁰ See Scope Ruling Request at 7.

¹¹ *Id.* at 4 and 7.

¹² *Id.* at 3-4 and 7.

¹³ *Id.* at Attachment 4.

it is outside the scope of an order.¹⁴ Whether particular merchandise meets these parameters involves two separate inquiries (*i.e.*, whether the product is of the type described in the order, and whether the country-of-origin of the product is that of the subject country).¹⁵

For the first part of the analysis, Commerce must determine whether the product described in the scope request is within the type of merchandise covered by the order. The scope of the *Order* covers “tapered roller bearings and parts thereof...; flange, take up cartridge, and hanger units incorporating tapered roller bearings...; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use...”¹⁶

According to the product descriptions and pictures provided in the Scope Ruling Request, the product at issue is a wheel hub assembly. Because the *Order* covers all manner of TRBs, including sets and housings (*i.e.*, including wheel hub units, which are a form of TRB housing),¹⁷ we find that WorldPac’s imported wheel hub assembly, containing a Chinese origin TRB set, consists of the type of merchandise covered by the scope of the *Order*.

With respect to whether the country-of-origin of the imported wheel hub assembly is China, we find that the Chinese-origin TRB set has undergone substantial transformation in Germany such that its country-of-origin has changed. When determining the country-of-origin of a product, Commerce usually conducts a substantial transformation analysis, *i.e.*, Commerce determines whether processing in a country substantially transforms the product, thus changing the country-of-origin.¹⁸ Commerce normally considers the following four factors when conducting a substantial transformation analysis:

- 1) whether the processed downstream product falls into a different class or kind of product when compared to the upstream product;
- 2) whether the essential component of the merchandise is substantially transformed in the country of exportation;
- 3) the extent of processing; and
- 4) the value added to the product.¹⁹

¹⁴ See *Bell Supply Co., LLC v. United States*, 179 F. Supp. 3d 1082, 1092 (CIT 2016) (*Bell Supply II*); *Sunpower Corp. v. United States*, 179 F. Supp. 3d 1286, 1298 (CIT 2016) (*Sunpower*); *Ugine and Alz Belg. N.V. v. United States*, 517 F. Supp. 2d 1333, 1345 (CIT 2007), *affirmed* 551 F.3d 1339 (Fed. Cir. 2009) (“{I}f merchandise does not meet one of the parameters—either class or kind, or country of origin—it is outside the scope of the ADD or CVD order”); *Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37065 (July 9, 1993) (*Cold-Rolled from Argentina*).

¹⁵ See *Sunpower*, 179 F. Supp. 3d at 1298; *Final Determination of Sales at Less Than Fair Value: 3.5” Microdisks and Coated Media Thereof from Japan*, 54 FR 6433, 6435 (February 10, 1989).

¹⁶ See *Order*.

¹⁷ See *Power Train Components, Inc. v. United States*, 911 F. Supp. 2d 1338, 1343-44 (CIT 2013) (upholding Commerce’s determination that wheel hub assemblies with, or without, ABS sensors are within the scope of the *Order*).

¹⁸ See *Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 76970 (December 23, 2014) and accompanying Issues and Decision Memorandum at Comment 1 (*Photovoltaic Products Final*).

¹⁹ See *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People’s Republic of China*, 71 FR 16116 (March 30, 2006) (*Artist Canvas from China*) and accompanying Issues and Decision Memorandum at Comment 1; see also *Photovoltaic Products Final*; *Laminated Woven Sacks from the People’s Republic of China: Final Results of First Antidumping Duty Administrative Review*, 76 FR 14906 (March 18, 2011)

The substantial transformation analysis “asks whether, as a result of the manufacturing or processing, the product loses its identity and is transformed into a new product having a new name, character and use”²⁰ and whether “{t}hrough that transformation, the new article becomes a product of the country in which it was processed or manufactured.”²¹ Commerce may examine a number of factors in conducting its substantial transformation analysis, and the weight of any one factor can vary from case to case and depends on the particular circumstances unique to the products at issue.²²

Although WorldPac’s wheel hub assemblies incorporate a single Chinese TRB set, Commerce’s ultimate decision is not based on any one characteristic but, rather, a totality of the criteria that distinguish whether or not the product at issue has been substantially transformed. The information WorldPac presented in its submission indicates that two TRB sets, one from China and another from Poland, are incorporated with a non-Chinese origin shaft seal with ABS sensor ring and grease, and are hydraulically pressed together into a German-manufactured wheel hub; the entire assembly is then exported as a finished wheel hub assembly.²³

Based on the information provided by WorldPac, we determine that the essential component of the merchandise is substantially transformed in the country of exportation because the Chinese TRB is incorporated into a substantially different product such that the Chinese TRB set no longer functions as a single-acting TRB set, but rather, must function in unison with the Polish TRB set and other parts as part of the wheel hub assembly.²⁴ Further, the nature of the processing is such that the possible uses for the TRBs are limited to those only in an application involving the entire wheel hub assembly, because the TRBs are greased and hydraulically pressed into the wheel hub unit. Finally, according to record evidence, the value that the single Chinese set adds to the complete wheel hub assembly is a minor and insignificant portion of the total cost of manufacturing.²⁵ While the processed downstream product continues to fall into the same class or kind of merchandise, albeit a more processed version of a TRB including a housing, we find that record information detailing the nature of the significant, additional, non-subject materials and associated processing, and the overall value-added demonstrates that the WorldPac’s wheel hub assembly, incorporating a single Chinese TRB, is a product of Germany.

(*LWS from China*) and accompanying Issues and Decision Memorandum at Comment 1b; *Notice of Final Determination of Sales at Less Than Fair Value: Glycine from India*, 73 FR 16640 (March 28, 2008) and accompanying Issues and Decision Memorandum at Comment 5. In some circumstances, Commerce considers an additional two factors, the level of investment, and the ultimate use. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 76 FR 3086 (January 19, 2011) and accompanying Issues and Decision Memorandum at Comment 6. We find that examining these two additional factors is unnecessary in this case because the four factors normally considered by Commerce are sufficient to determine the issue.

²⁰ See *Bell Supply Co., LLC v. United States*, 888 F.3d 1222, 1228 (Fed. Cir. 2018).

²¹ See *Cold-Rolled from Argentina*, 58 FR at 37065 (quoted in *Ugine and Alz Belgium N.V. v. United States*, 517 F. Supp. 2d 1333, 1337 n.5 (2007)).

²² See *LWS from China* and accompanying Issue and Decision Memorandum at Comment 1b.

²³ See Scope Ruling Request at 3-4 and Attachment 2.

²⁴ *Id.*

²⁵ *Id.* at 3-4.

Based on the information we examined above, we find that the manufacturing process in Germany produces an entirely new article of German origin, which is not subject to the scope of the *Order*, which covers TRBs from China. Further, there is no evidence from the (k)(1) sources which would indicate that a country other than China is relevant for this *Order*.

RECOMMENDATION

For the reasons discussed above, and in accordance with 19 CFR 351.225(d) and 351.225(k), we recommend finding that WorldPac's wheel hub assembly (*i.e.*, product number 38652) consisting of a Chinese TRB set, a Polish TRB set, a German wheel hub, and other non-Chinese origin shaft seal with ABS sensor ring, produced in Germany is not covered by the scope of the *Order*.

If the recommendation in this memorandum is accepted, we will serve a copy of this determination to all interested parties on the scope service list via first-class mail, as directed by 19 CFR 351.225(d).

☒

Agree

☐

Disagree

9/11/2019

X 

Signed by: JAMES MAEDER

James Maeder

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations

EXHIBIT 13

A-570-967; C-570-968
Anticircumvention Inquiry
Air Master Window Frame Extrusions
Public Document
AD/CVDVI:FB

October 15, 2019

MEMORANDUM TO: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

THROUGH: Steven Presing
Acting Director, Office VI
AD/CVD Operations

Erin Kearney
Program Manager
AD/CVD Operations, Office VI

FROM: Fred Baker
Analyst
AD/CVD Operations, Office VI

SUBJECT: Final Scope Ruling on the Antidumping and Countervailing Duty
Orders on Aluminum Extrusions from the People's Republic of
China: Aluminum Jalousie Shutters

Summary

On April 30, 2019, following a request to conduct anti-circumvention inquiries by an American producer of windows and doors, Air Master Awning LLC (Air Master), the Department of Commerce (Commerce) determined to initiate an anti-circumvention and self-initiate a scope inquiry¹ to determine whether aluminum jalousie shutters manufactured from window frame extrusions from the People's Republic of China (China) are subject to the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from China.² On the basis of our scope inquiry analysis, we determine that the aluminum jalousie shutters are subject to the *Orders*. Accordingly, we intend to terminate the anti-circumvention inquiries as moot.

¹ See *Aluminum Extrusions from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 19757 (May 6, 2019) (*Initiation Notice*).

² See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, the *Orders*).



Background

On May 26, 2011, Commerce published the *Orders* on aluminum extrusions from China.³ On September 25, 2018, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(h), Air Master requested that Commerce initiate anti-circumvention inquiries on imports of aluminum jalousie shutters completed or assembled in the Dominican Republic using window frame extrusions sourced from China that are subject to the *Orders*.⁴ Air Master submitted supplements to its request in October and December 2018.⁵ Separately, Commerce issued a supplemental questionnaire to Air Master on February 11, 2019,⁶ to which Air Master responded on February 19, 2019.⁷

On October 19, 2018, the Puerto Rico Agencies Co., Inc., exporters of Chinese aluminum extrusions to the Dominican Republic, submitted comments on the proposed anti-circumvention inquiries.⁸ On April 18, 2019, the Aluminum Extrusions Fair Trade Committee (the petitioner) submitted a letter in support of Air Master's request for anti-circumvention inquiries.⁹

On April 30, 2019, in response to Air Master's request, Commerce initiated anti-circumvention inquiries to determine whether imports of aluminum jalousie shutters that are processed in the Dominican Republic from window frame extrusions produced in China, are circumventing the *Orders*. On the same date, Commerce self-initiated scope inquiries to determine whether the aluminum jalousie shutters are subject to the *Orders*.¹⁰

On May 24, 2019, Commerce invited interested parties to submit comments and factual information regarding the scope inquiries.¹¹ On June 6, 2019, we received comments from Aluvinsa Industrial SRL, a producer and exporter of aluminum jalousie shutters from the

³ *Id.*

⁴ See Air Master Letter, "Aluminum Extrusions from the People's Republic of China, A-570-967 and C-570-968; Request for Circumvention Ruling Pursuant to Section 781(c) of the Tariff Act of 1930," dated September 25, 2018 (Circumvention Request).

⁵ See Air Master Letter, "Aluminum Extrusions from the People's Republic of China, A-570-967 and C-570-968; Request for Circumvention Ruling Pursuant to Section 781(c) of the Tariff Act of 1930," dated October 1, 2018 (First Supplement to Request); and Air Master Letter, "Aluminum Extrusions from the People's Republic of China, A-570-967 and C-570-968; Request for Circumvention Ruling Pursuant to Section 781(c) of the Tariff of 1930; Submission of Supplemental Information," dated December 18, 2018 (Second Supplement to Request).

⁶ See Commerce Letter, "Aluminum Extrusions from the People's Republic of China Anti-Circumvention Inquiry: Air Master Awning, LLP," dated February 11, 2019.

⁷ See Air Master Letter, "Aluminum Extrusions from the People's Republic of China, A-570-967 and C-570-968; Anticircumvention Inquiry; Response of Air Master Awning LLC to the Department's Request for Further Information," dated February 19, 2019 (Questionnaire Response).

⁸ See Letter, "Re: Aluminum Windows from the Dominican Republic/Air Master Awning (sic) LLC," placed on the record by Commerce in a Memorandum dated April 25, 2019. Puerto Rico Agencies, Co., Inc. did not address scope questions and only spoke to the circumvention allegation filed by Air Master.

⁹ See Petitioner's Letter, "Aluminum Extrusions from the People's Republic of China: Letter in Support of Air Master Awning LLC's Request for an Anti-Circumvention Inquiry," dated April 18, 2019.

¹⁰ See *Initiation Notice*, 84 FR at 19762.

¹¹ See Memorandum, "Aluminum Extrusions from the People's Republic of China: Initiation of Scope Inquiries on Window Frame Extrusions," dated May 24, 2019.

Dominican Republic.¹² In June 2019, we received comments¹³ and rebuttal comments¹⁴ from Air Master; we also received letters in support of Air Master's submissions from the Aluminum Extrusions Fair Trade Committee (the petitioner).¹⁵

On August 27, 2019, Commerce extended the time period for issuing this scope ruling by 45 days, until October 15, 2019.¹⁶

SCOPE OF THE *ORDERS*

The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

¹² See Aluvinsa Letter, dated June 6, 2019. Due to filing deficiencies in Aluvinsa's submission, on September 30, 2019, we requested that Aluvinsa revise and resubmit its June 6, 2019 submission, consistent with Commerce's filing requirements. Aluvinsa resubmitted its comments on October 2, 2019, but we rejected these comments from the record because they contained new factual information. On October 2, 2019, Commerce again requested that Aluvinsa submit a revised version of its June 6, 2019, submission. Aluvinsa made that submission on October 8, 2019 (Aluvinsa Scope Comments).

¹³ See Air Master Letter, "Aluminum Extrusions from the People's Republic of China, A-570-967 and C-570-968; Scope Inquiries on Window Frame Extrusions," dated June 13, 2019 (Air Master Scope Comments).

¹⁴ See Air Master Letter, "Aluminum Extrusions from the People's Republic of China, A-570-967 and C-570-968; Scope Inquiries on Window Frame Extrusions; Rebuttal Comments of Air master Awning LLC," dated June 24, 2019 (Air Master Rebuttal Comments).

¹⁵ See Petitioner Letters, "Aluminum Extrusions from the People's Republic of China: Letter in Support of Air Master Awning LLC's Comments in Scope Inquiries on Window Frame Extrusions," dated June 13, 2019 (Petitioners Comments), and "Aluminum Extrusions from the People's Republic of China: Letter in Support of Air Master Awning LLC's Rebuttal Comments," dated June 24, 2019 (Petitioner Rebuttal Comments).

¹⁶ Commerce Letter, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Air Master Window Frame Extrusions Scope Inquiry," dated August 27, 2019.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled "as is" into a finished product. An imported product will not be considered a "finished goods kit" and therefore excluded from the scope of the *Orders* merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products

are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 millimeters (“mm”) or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of these *Orders* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7604.29.3060; 7604.29.3090; 7604.29.5050; 7604.29.5090; 8541.90.00.00, 8708.10.30.50, 8708.99.68.90, 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be

classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

LEGAL FRAMEWORK

In conducting a scope inquiry, Commerce examines the scope language of the order and the description of the product contained in the scope-ruling request.¹⁷ Pursuant to Commerce's regulations, Commerce may also examine other information, including the description of the merchandise contained in the petition, the records from the investigations, and prior scope determinations made for the same product.¹⁸ If Commerce determines that these sources are sufficient to decide the matter, it will issue a final scope ruling as to whether the merchandise is covered by an order.¹⁹

Conversely, where the descriptions of the merchandise in the sources described in 19 CFR 351.225(k)(1) are not dispositive, Commerce will consider the five additional factors set forth at 19 CFR 351.225(k)(2). These factors are: (i) the physical characteristics of the merchandise; (ii) the expectations of the ultimate purchasers; (iii) the ultimate use of the product; (iv) the channels of trade in which the product is sold; and (v) the manner in which the product is advertised and displayed. The determination as to which analytical framework is most appropriate in any given scope proceeding is made on a case-by-case basis after consideration of all evidence before Commerce.

Scope determinations properly entail both a description of the product, and the identification of the country from which the product originates.²⁰ Thus, in order to determine whether a product imported into the United States falls within the scope of an AD/CVD order, Commerce must determine not only whether the scope language covers that particular product, but also whether the product is produced in the country that is the subject of the AD/CVD order. Traditionally, Commerce has applied a substantial transformation analysis to determine the country of origin of a product.²¹ If the product is substantially transformed in a third country, that country becomes

¹⁷ See *Walgreen Co. v. United States*, 620 F.3d 1350, 1357 (Fed. Cir. 2010).

¹⁸ See 19 CFR 351.225(k)(1).

¹⁹ See 19 CFR 351.225(d).

²⁰ See *Slater Steels Corp. v. United States*, 297 F. Supp. 2d 1351, 1354-55 (CIT 2003) (holding Commerce acted properly by not collapsing two companies located in different countries in one AD investigation because an AD proceeding covers subject merchandise produced in one country), *aff'd*, 159 Fed. Appx. 1007 (Fed. Cir. 2005).

²¹ See Memorandum, "Antidumping and Countervailing Duty Orders on Aluminum Extrusions from the People's Republic of China: Prior Scope Rulings Relevant to This Proceeding," dated concurrently with this memorandum (Prior Scopes Memorandum), at Attachment I (containing Memorandum "Preliminary Scope Ruling concerning the Antidumping Duty Order on Glycine from the People's Republic of China (PRC)", dated September 13, 2012 (Chinese Glycine Preliminary Scope Ruling)); and Attachment II (containing Memorandum "Final Scope Ruling concerning the Antidumping Duty Order on Glycine from the People's Republic of China," dated December 3, 2012 (Chinese Glycine Final Scope Ruling)). See also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 76 FR 3086 (January 19, 2011), and accompanying Issues and Decision Memorandum at Comment 6; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2007-2008 Administrative Review of the Antidumping Duty Order*, 75 FR 844 (January 6, 2010), and accompanying Issues and Decision Memorandum at Comment 1; Memorandum from Juanita H. Chen to Stephen J.

the country of origin. Commerce's analysis, in this regard, has been upheld by the United States Court of International Trade (CIT).²²

DESCRIPTION OF THE MERCHANDISE SUBJECT TO THESE SCOPE INQUIRIES

The merchandise at issue are aluminum jalousie shutters²³ exported from the Dominican Republic that are manufactured from window frame extrusions produced in China.²⁴ Jalousie shutters are glass-less louver windows composed of parallel aluminum slats set in a frame, which are joined on an aluminum track and tilted open/shut in unison to control airflow.²⁵ The jalousie shutters have aluminum louvers, but no glass panes or vinyl.²⁶ Upon completion of the processing in the Dominican Republic, the jalousie shutters at issue lack an operating mechanism and a crank.²⁷ As imported into the United States, they consist of only window frame extrusions and fasteners.²⁸ The window frame extrusions from which the jalousie shutters are manufactured are processed entirely from aluminum extrusions whose profile has been designed specifically for use in a window, and are powder coated.²⁹ Aluminum jalousie shutters enter the United States under HTS 7610.10.00.10.³⁰

RELEVANT SCOPE DETERMINATIONS

Glycine from China³¹

At issue was whether Chinese-origin glycine processed into a purer grade of glycine in India was within the scope of the order on glycine from China. The respondent argued that the processing performed in India constituted substantial transformation of the glycine such that the country of

Claeys, "Pure Magnesium from the People's Republic of China (A-570-832), Magnesium Metal from the People's Republic of China (A-570-896), and Magnesium Metal from Russia (A-821-819): Final Ruling in the Scope Inquiry on Chinese Magnesium Processed in France," dated December 4, 2006; Memorandum from Barbara E. Tillman and Wendy J. Frankel to Stephen J. Claeys, "Pure Magnesium from the People's Republic of China (A-570-832), Magnesium Metal from the People's Republic of China (A-570-896), and Magnesium Metal from Russia (A-821-819): Final Ruling in the Scope Inquiry on Russian and Chinese Magnesium Processed in Canada," dated November 9, 2006 (Magnesium-Canada Scope Ruling); *Notice of Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the Republic of Korea*, 71 FR 29310 (May 22, 2006), and accompanying Issues and Decision Memorandum at Comment 3; and *Notice of Final Determination of Sales at Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons from France*, 69 FR 10674 (March 8, 2004).

²² See, e.g., *E.I. DuPont De Nemours & Co. v. United States*, 8 F. Supp. 2d 854, 858 (CIT 1998).

²³ In the Circumvention Request, First Supplement to Request, and Second Supplement to Request, Air Master referred to the merchandise at issue as "aluminum windows." However, in the Questionnaire Response, Air Master stated that the merchandise at issue would more clearly be described as aluminum jalousie shutters. See Questionnaire Response at 3.

²⁴ See Circumvention Request at 2; see also *Initiation Notice*, 84 FR at 19759.

²⁵ See Questionnaire Response at 3.

²⁶ *Id.*, at 5.

²⁷ See Air Master Second Supplement to Request at 3; see also Questionnaire Response at 5-6.

²⁸ See Air Master Second Supplement to Request at 3.

²⁹ See Circumvention Request at 5.

³⁰ *Id.* at 7 n.11.

³¹ See Chinese Glycine Preliminary Scope Ruling and Chinese Glycine Final Scope Ruling.

origin was India. Commerce disagreed, stating that the totality of the evidence did not support a finding that substantial transformation occurred in India.

Cutting and Marking Edges Scope Ruling³²

In the Cutting and Marking Edges Scope Ruling, the products at issue were finished cutting and marking straight edges suitable for immediate use in drafting and cutting applications without further manufacturing, assembly, mounting, or combination with any other component, apparatus, or fixture.³³ Because the products at issue consisted of a single hollow extrusion made of aluminum alloy, Commerce found that the merchandise was covered by the inclusive language of the scope, was not covered by the exclusion for “finished merchandise,” nor any other exclusion, and was, therefore, covered by the *Orders*.³⁴

Circle Glass Co. Patio Door Kits³⁵

This ruling addressed patio door kits, consisting of an extruded aluminum door frame without a screen, several non-extruded aluminum components beyond mere fasteners, and several fastener components. The patio door kit contained all components necessary to assemble a patio screen door and mount it to a doorway – except the screen, which is purchased separately. Circle Glass Co. (Circle Glass) argued that the fact that the patio door kit did not include the screen is insufficient to render the product unfinished. Circle Glass further argued that the screen was not essential to the structural integrity of the door and could be purchased separately by the end consumer, and thus the patio door kit should qualify for the finished goods kit exclusion.

In the pertinent ruling, Commerce found that the patio door kits did not meet the exclusion criteria for a finished goods kit.³⁶ Commerce found that the screen for the product at issue was akin to the glass or vinyl discussed in the scope of the *Orders*, and that without the screen, the patio door kits did not meet the exclusion criteria, *i.e.*, that “all of the necessary parts to fully assemble a final finished good” are included in the finished goods kit.³⁷

Circle Glass appealed Commerce’s decision, and the CIT affirmed Commerce’s scope ruling. The CIT held that the product at issue was a kit for an “empty door frame,” and “not a ‘complete’ screen door,” meaning that the kits “do not fit within the ‘finished goods kits’ exclusion in the *Orders*.”³⁸

³² See Prior Scope Memorandum at Attachment III (containing Memorandum “Aluminum Extrusions from the People’s Republic of China: Final Scope Ruling on Cutting and Marking Edges,” dated November 13, 2012 (Cutting and Marking Edges Scope Ruling)).

³³ *Id.* at 2.

³⁴ *Id.* at 10-11. The scope ruling was appealed to the CIT and subsequently dismissed. See *Plasticoid Mfg. Inc. v. United States*, Court No. 12-00407, Slip Op. 15-30 (CIT 2015).

³⁵ See Prior Scopes Memorandum at Attachment V (containing Memorandum “Final Scope Ruling on Circle Glass Co.’s Screen and Storm Door Grille and Patio Door Kits,” dated December 5, 2014 (Patio Door Kits Scope Ruling)).

³⁶ *Id.* at 13-14.

³⁷ *Id.*

³⁸ *Circle Glass Company v. United States*, 180 F. Supp. 3d 1133, 1136 (CIT 2016).

Meridian Door Handles Second Remand³⁹

At issue in this second remand were door handles for oven door assemblies, known as Type B handles, which Meridian Products LLC (Meridian) described as “fully and permanently assembled and completed at the time of entry.”⁴⁰ Commerce’s redetermination addressed the underlying Final Scope Ruling by Commerce regarding Meridian’s door handles.⁴¹ It also addressed arguments from *Meridian I*,⁴² *Meridian II*,⁴³ *Meridian III*,⁴⁴ and *Meridian IV*.⁴⁵ In the redetermination, Commerce found that the Type B handles were “subassemblies” or “parts for” final finished goods which were intended to “become part of a larger whole” and that they were not finished merchandise containing extrusions.⁴⁶ Therefore, Commerce determined that the Type B handles did not meet the criteria for the finished merchandise exclusion and were subject to the *Orders*.⁴⁷

Shenyang Yuanda⁴⁸

The CAFC affirmed Commerce’s finding that the merchandise produced by Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.’s, and exported to the United States by Jangho Curtain Wall Hong Kong Ltd., (collectively, Jangho) and the merchandise produced by Shenyang Yuanda Aluminum Industry Engineering Co., Ltd. and Yuanda USA Corp. (collectively, Shenyang Yuanda) constituted subassemblies. The finished merchandise kits at issue were found to be parts of their final finished products, namely, curtain walls. Since the kits at issue were not imported with all the pieces needed to assemble curtain walls, the CAFC affirmed Commerce’s determination that these kits did not meet the criteria for the finished goods exclusion and were subject to the scope of the *Orders*.

³⁹ See *Meridian Products LLC v. United States*, Court No. 13-00246, Slip Op. 19-5 (CIT January 14, 2019) Final Results of Second Redetermination Pursuant to Court Remand (Meridian Door Handles Second Remand).

⁴⁰ See Meridian Door Handles Second Remand, citing Letter, “Aluminum Extrusions from the People’s Republic of China: Comment in Response to Formal Scope Inquiry Regarding Kitchen Appliance Door Handles,” date March 18, 2013, at 4.

⁴¹ See Memorandum, “Final Scope Ruling on Meridian Kitchen Appliance Door Handles,” dated June 21, 2013 (Final Scope Ruling).

⁴² See *Meridian Products LLC v. United States*, 125 F. Supp. 3d 1306, 1312 (Court of International Trade (CIT) 2015) (*Meridian I*). The CIT affirmed Commerce’s determination that the kitchen appliance door handles without end caps, i.e., Type A and Type C handles, are within the scope of the *Orders*.

⁴³ See *Meridian Products, LLC v. United States*, 180 F. Supp. 3d 1283, 1289 (CIT 2016) (*Meridian II*) (On remand, under protest, Commerce complied with the CIT and found Meridian’s Type B handles outside the scope of the *Orders*. The CIT affirmed Commerce’s decision that the Type B handles are not within the scope of the *Orders*. However, the Court does not affirm the redetermination in its entirety.)

⁴⁴ See *Meridian Products LLC v. United States*, 890 F.3d 1272 (Fed. Cir. 2018) (*Meridian III*) (The United States Court of Federal Appeals for the Federal Circuit (CAFC) determined that the scope language does not limit fasteners to non-plastic components, but rather provides examples of common fasteners. The CAFC further stated that this is not limited to metal screws or bolts, and that the record evidence supported the conclusion that the plastic end caps serve to fasten the Type B handles to the appliance doors).

⁴⁵ See *Meridian Products LLC v. United States*, 357 F. Supp. 3d 1351 (CIT 2019) (*Meridian IV*).

⁴⁶ See Meridian Door Handles Second Remand at 31.

⁴⁷ *Id.*

⁴⁸ See *Shenyang Yuanda Aluminum Industry Engineering Co., Ltd. v. United States*, 918 F.3d 1355 (Fed. Cir. 2019) (*Shenyang Yuanda*).

INTERESTED PARTY COMMENTS

Air Master Comments

- The scope language of the *Orders* covers the Chinese aluminum extrusions dedicated to use in jalousie shutters assembled in the Dominican Republic. Specifically, they are merely “other solid profiles” and “window frames,” which are products expressly identified in the *Orders*’ scope language.⁴⁹ As such, they would unquestionably be subject to the *Orders* if they were exported directly from China to Puerto Rico. The only components of the jalousie shutters that are not Chinese-origin aluminum extrusions are fasteners. The cutting, drilling, and attachment operations performed in the Dominican Republic do not change the essential character and use of these window frame extrusions, and, thus, do not remove them from the *Orders*’ scope.⁵⁰
- The scope of the *Orders* expressly covers “aluminum extrusion components that are attached (e.g., by welding or fastening) to form subassemblies.” This language unquestionably describes the jalousie shutter subassemblies subject to this inquiry.⁵¹
- The jalousie shutters are not subassemblies that are “fully and permanently assembled and completed” merchandise because they lack the crank and operator that would enable them to function as jalousie shutters. Thus, they do not fit within the “finished goods” exclusion of the scope.⁵² The crank and operating mechanism necessary to complete the shutter are not even included when they are offered for sale to retail customers. They are separately provided to the customer when the shutter is sold. Final assembly of the finished shutter is done by the contractor installing the shutter or by the homeowner.⁵³
- The jalousie shutters also do not fit within the “finished goods kit” exception to the scope. First, they lack the operating mechanism and rank that enable the louvers to the shutter to function, and, thus, as imported, they do not constitute a packaged combination that includes all of the parts necessary to assemble a finished product. Additionally, they comprise only aluminum extrusions from China and fasteners.⁵⁴
- The scope language of the *Orders* is dispositive. Commerce can and should make a determination pursuant to 19 CFR 351.225(k)(1). Resort to the factors listed in 19 CFR 351.225(k)(2) is unnecessary.⁵⁵

Petitioner Comments

- The petitioner supports Air Master’s contention that the Chinese window frame extrusions at issue in these scope inquiries are subject to the *Orders*.⁵⁶

Aluvinsa Comments

⁴⁹ Air Master Scope Comments at 7.

⁵⁰ *Id.* at 8.

⁵¹ *Id.* at 9.

⁵² *Id.*

⁵³ *Id.* at 6.

⁵⁴ *Id.* at 10.

⁵⁵ *Id.*

⁵⁶ *See* Petitioner Comments at 2.

- Air Master's arguments, despite being unfounded, were forwarded to the General Directorate of Customs. As a result, Aluvinsa was subject to an extensive audit during which time it was blocked from doing any importing or exporting, which caused serious losses for both Aluvinsa and its Puerto Rican customers.
- In the course of the audit, Aluvinsa was able to demonstrate that the aluminum profiles it uses for the manufacture of jalousie shutters are subject to a manufacturing process in which the profiles become a totally different product. It is a process that uses 10 machines and 22 employees.
- Aluvinsa also demonstrated in the audit that its operations were carried out within the legal framework.

Air Master Rebuttal

- Aluvinsa's comments serve to confirm some of the basic assertions Air Master made in its circumvention allegation.
 - Aluvinsa acknowledges that it uses Chinese imported aluminum extrusion profiles to manufacture shutters.
 - While Aluvinsa highlights the number of machines and workers it claims are involved in the assembly operations, it does not deny that the operations constitute only cutting extruded profiles to size and attaching them together with screws or rivets.
 - Aluvinsa does not deny that its products comprise only aluminum extrusions and rivets.
- While Aluvinsa states that Dominican customs authorities concluded that its imported profiles were subject to a process in which they became a totally different product from the imported profile, Aluvinsa never articulated the factual or legal standards the Dominican authorities used to reach this conclusion. Aluvinsa provided no information that would enable Commerce to gauge the credibility of this assertion or to determine whether any aspect of the inquiry has any bearing on the instant proceeding.
- Whatever the specific nature of the Dominican procedure may have been, the conclusions of Dominican authorities are based on Dominican customs and tax law. Such conclusions do not address the issue of U.S. law that is before Commerce in this proceeding. They say nothing about Air Master's claim that the jalousie shutters at issue comprise only Chinese aluminum extrusions and fasteners. As such, the claimed findings of Dominican authorities are inapposite.
- Aluvinsa's comments pertain only to itself. They say nothing about the operations of other Dominican assemblers who are exporting aluminum jalousie shutters to Puerto Rico.

Petitioner Rebuttal

- Aluvinsa's comments are irrelevant to the scope inquiries because the decision of the Dominican customs authority cited by Aluvinsa has no bearing on the current proceeding, which is based on U.S. law before Commerce.
- Aluvinsa has failed to demonstrate that the windows subject to these inquiries have been substantially transformed such that they are outside the scope of the *Orders*.

COMMERCE POSITION

We examined the language of the *Orders* and the description of the products contained on the record of these inquiries, as well as previous rulings made by Commerce. We find that the description of the products, the scope language, and prior rulings are, together, dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1). Accordingly, for this determination, Commerce finds it unnecessary to consider the additional factors specified in 19 CFR 351.225(k)(2). For the reasons set forth below, we find that the merchandise at issue, aluminum jalousie shutters, meet the description of merchandise covered by the scope of the *Orders*.

The CAFC has stated that “the plain language of an antidumping order is ‘paramount’ in determining whether products are included within its scope.”⁵⁷ Here, as Air Master indicates, the plain scope of the *Orders* contains some language directly relevant to the question of whether the jalousie shutters and the window frame extrusions from which they are manufactured are covered under the *Orders*.⁵⁸ Specifically, the scope states:

The merchandise covered by the orders is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, **other solid profiles**, pipes, tubes, bars, and rods.

Aluminum extrusions are produced and imported with a variety of finishes, ... and types of fabrication. The types of coatings ... include, but are not limited to, ... **powder coated**.

Subject aluminum extrusions may be described at the time of importation **as parts for final finished products** that are assembled after importation, including, but not limited to, **window frames**, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. **The scope includes the aluminum extrusion components that are attached (e.g., by welding or fasteners) to form subassemblies, i.e.,** partially assembled merchandise unless imported as part of the finished goods ‘kit’ defined further below.

The scope ... excludes finished merchandise containing aluminum extrusions **as parts** that are fully and permanently assembled and completed at the time of

⁵⁷ See *Meridian Products v. United States*, 890 F. 3d 1272, 1277 (Fed Cir. 2018) (citing *King Supply Co., LLC v. United States*, 674 F. 3d 1343, 1345 (Fed. Cir. 2012)); see also *Meridian Products, LLC v. United States*, 851 F. 3d 1375, 1381-85 (Fed. Cir. 2017) (If the scope is unambiguous, it governs).

⁵⁸ See Air Master Scope Comments at 3-4.

entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a “finished goods kit.” A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication ... An imported product will not be considered a “finished goods kit” and therefore excluded from the scope of the orders merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.⁵⁹

As an initial matter, we agree with Air Master that the window frame extrusions as exported from China would be covered under the *Orders* because their physical characteristics meet the criteria for being subject to the *Orders*.⁶⁰ Specifically:

- The window frame extrusions in the jalousie shutters constitute aluminum produced from an extrusion process;
- They are produced from solid profiles;
- They are powder coated; and
- They constitute parts for final finished products (*i.e.*, jalousie shutters).⁶¹

Consistent with Commerce’s determination in the Meridian Door Handles Second Remand, we have evaluated the general scope language, in addition to the finished merchandise and finished goods kits exclusion language. Commerce’s Meridian Door Handles Second Remand noted that the scope language stating, “{t}he scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods ‘kit’” could be understood in three parts, discussed below.⁶²

First, included in the scope of the *Orders* are aluminum extrusion components that are attached by some mechanism (including, but not limited to, welding or fasteners) to form subassemblies. Commerce has previously found that this language covers aluminum extrusion components that are attached to other aluminum extrusion components, or attached to non-aluminum extrusion components, or some combination thereof, at the time of importation.⁶³

Second, Commerce found a distinction in the scope between a subassembly which is covered by the general scope language, and an assembly which satisfies the finished merchandise exclusion: “finished merchandise containing extrusions as parts that are fully and permanently assembled and completed at the time of entry.”⁶⁴ “Subassemblies” is broadly defined in the scope as

⁵⁹ See the *Orders* (emphasis added).

⁶⁰ See Air Master Scope Comments at 7-8.

⁶¹ See Circumvention Request at 5.

⁶² See *Meridian Door Handles Second Remand* at 20-23.

⁶³ *Id.*

⁶⁴ *Id.*

“partially assembled merchandise,” which we understand to be distinct from products which are “fully and permanently assembled and completed” finished merchandise.⁶⁵ A subassembly could also be described as an intermediate product or any other partially assembled product that is less than the full, permanent, and completed final finished product which satisfies the finished merchandise exclusion.⁶⁶ In examining whether the aluminum extrusion components of an assembly are within the scope pursuant to the subassemblies language, or whether the entire assembly is excluded under the finished merchandise exclusion, we must consider whether the product is “partially assembled,” as opposed to “fully and permanently assembled and completed.”⁶⁷ Further, the fact that the subassembly could be described in its own right with reference to its end use, or that such subassembly requires no further fabrication or assembly to perform its function as a subassembly, does not mean that it will constitute finished merchandise under the exclusion.⁶⁸

Third, in evaluating the subassemblies language in the general scope language, Commerce has noted that there is a specific reference to the finished goods kit exclusion, which means that products which satisfy the subassemblies language may, nonetheless, be excluded under the finished goods kit exclusion.⁶⁹ However, the subassemblies language does not similarly reference the finished merchandise exclusion, and the lack of such express language supports an interpretation that products which satisfy the subassemblies language cannot be excluded under the finished merchandise exclusion.⁷⁰

Commerce found in the Meridian Door Handles Second Remand that there is a clear distinction in the scope between “parts for final finished products” which “otherwise meet the definition of aluminum extrusions,” such as an aluminum extrusion door frame, which is in-scope, and the final finished product itself, the door with glass or vinyl, which is excluded under the finished merchandise exclusion.⁷¹ Thus, Commerce found, based on the scope language and the structure of the scope as a whole, a delineation in the scope among three categories of products: (1) aluminum extrusion components that are already attached to form subassemblies, *i.e.*, assembled, upon importation (not excluded); (2) aluminum extrusions components in a packaged combination of parts that are unassembled at the time of importation, and that will undergo assembly upon importation into a final finished good (excluded under the finished goods kit exclusion); and (3) finished merchandise containing extrusions as parts that are fully and permanently assembled and completed at the time of entry (excluded under the finished merchandise exclusion), but which does not include a subassembly.⁷²

With respect to the finished merchandise exclusion, the scope of the *Orders* excludes “finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry....” Given that the scope language describes excluded finished merchandise as “containing aluminum extrusions as parts,” the excluded “finished

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* at 25.

merchandise” must contain aluminum extrusions “as parts,” plus an additional non-extruded aluminum component. Otherwise, this specific language (*i.e.*, “as parts”) would be read out of the scope, resulting in the different condition “containing aluminum extrusions that are fully and permanently assembled and completed at the time of entry.” Accordingly, to give effect to this “as parts” language, we find that to qualify for the finished merchandise exclusion, the product must contain aluminum extrusions as parts and must include some non-extruded aluminum component. This interpretation is supported by the illustrative examples of excluded “finished merchandise” contained in the scope, all of which contain extruded aluminum and non-extruded aluminum components (*e.g.*, finished windows with glass, doors with glass or vinyl, *etc.*). In comparison, we note that those products specifically included in the *Orders*, such as window frames and door frames, do not constitute finished merchandise because they cannot be considered to “contain {} aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry.”⁷³ Rather, the in-scope window frames and door frames, compose the entirety of the product. Moreover, we find that the term “as parts” in the scope exclusion necessarily requires a plural construction, rather than encompassing both the singular “part” and plural “parts,” given the context provided by other terms in the exclusion, such as “containing” and “assembled” as well the examples of excluded finished merchandise, all of which contain at least an aluminum extrusion component and non-extruded aluminum component.

Information on the record indicates that the jalousie shutters processed from the window frame extrusions, as imported into the United States, consist of only aluminum extrusions that are fastened together, to which an operating mechanism and crank will be added after importation.⁷⁴ We considered whether the aluminum jalousie shutters meet the definition of finished merchandise (*i.e.*, merchandise that is fully and permanently assembled and completed at the time of entry) or a finished goods kit (*i.e.*, a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled “as is” into a finished product).⁷⁵ We find that the jalousie shutters would not constitute finished merchandise or finished goods kits because, upon entry into the United States, they do not include all parts necessary to function as a finished jalousie shutter. Specifically, they lack an operating mechanism and a crank, which are necessary for the product to function as a jalousie shutter, and which must be purchased and installed separately.⁷⁶ Similarly, because the product does not contain, at the time of importation, all parts necessary to assemble a final finished good, we find that it also does not constitute a finished goods kit.

Accordingly, because the operating mechanism and crank must be purchased and installed separately,⁷⁷ we find that a jalousie shutter that enters the United States is a subassembly of the complete, functional product. Specifically, we find that the absence of the operating mechanism and crank make the jalousie shutter at issue in this scope ruling an intermediate or partially

⁷³ See the *Orders*.

⁷⁴ See Questionnaire Response at 5; see also Second Supplement to Request at 3.

⁷⁵ See, *e.g.*, Cutting and Marking Edges Scope Ruling, Patio Door Kits Scope Ruling.

⁷⁶ *Id.*; see also Questionnaire Response at 5.

⁷⁷ See Questionnaire Response at 5.

assembled product that is less than the full, permanent, and completed final finished product. Accordingly, we find that the jalousie shutters, as entered, consist of aluminum extrusion components that are attached to form subassemblies, and are, therefore, covered as in-scope merchandise.⁷⁸

Moreover, we agree with Air Master that the inquiry conducted by the Dominican customs authorities is not relevant to this proceeding.⁷⁹ Nothing on the record establishes the criteria Dominican customs authorities used in making their determination or even the exact point of the Dominican inquiry. The criteria Commerce uses in making scope determinations may be much different from that used by Dominican customs authorities in making its determinations, and what might constitute a “totally different product” for Dominican customs purposes might nonetheless still be within the scope of a U.S. AD or CVD order.

However, as noted above, in order to determine whether a product imported into the United States falls within the scope of an AD/CVD order, Commerce must determine not only whether the scope language covers that particular product, but also whether the product is produced in the country that is the subject of the AD/CVD order. Accordingly, we have examined whether the processing that takes place in the Dominican Republic constitutes a substantial transformation, so as to confer a new country of origin on the window frame extrusions into the Dominican Republic from China, further processed in the Dominican Republic, and then exported to the United States.

The substantial transformation analysis “asks whether, as a result of the manufacturing or processing, the product loses its identity and is transformed into a new product having a new name, character and use” and whether “{t}hrough that transformation, the new article becomes a product of the country in which it was processed or manufactured.”⁸⁰ Commerce may examine a number of factors in conducting its substantial transformation analysis, and the weight of any one factor can vary from case to case and depends on the particular circumstances unique to the products at issue.⁸¹

We have conducted our analysis by examining criteria that Commerce has used in past scope inquiries and country-of-origin determinations. Commerce normally considers the following four factors when conducting a substantial transformation analysis:

- 1) Whether the processed downstream product falls into a different class or kind of product when compared to the upstream product;
- 2) Whether the essential component of the merchandise is substantially transformed in the country of exportation;

⁷⁸ See Meridian Door Handles Second Remand at 25.

⁷⁹ See Air Master Rebuttal Comments at 5.

⁸⁰ See *Certain Cold-Rolled Steel Flat Products from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) and accompanying Issues and Decision Memorandum at Comment 1 (citations omitted).

⁸¹ See Prior Scopes Memorandum at Attachment VI (containing Memorandum, “Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People’s Republic of China: Final Scope Ruling on WorldPac Inc.’s Wheel HubAssemblies,” dated September 11, 2019).

- 3) The extent of processing;
- 4) The value added to the product.⁸²

We analyze each factor, below.

1) Whether the processed downstream product falls into a different class or kind of product when compared to the upstream product

The window frame extrusions from China as imported into the Dominican Republic are shaped in profiles that dedicate them for use only as the frames and other components of a window, and have no purpose other than to be processed into aluminum windows.⁸³ Thus, both window frame extrusions and jalousie shutters are ultimately used as windows.⁸⁴ Moreover, they enter the United States under the same HTSUS subheading of 7610.10.00.10.⁸⁵ These factors support a conclusion that window frame extrusions and jalousie shutters are part of the same class or kind of product.

2) Whether the essential component of the merchandise is substantially transformed in the country of exportation

Under this criterion, Commerce considers whether processing in the exporting country changes the *important qualities or use of the component*.⁸⁶ In making this consideration, Commerce has focused on the significance of the changes in physical qualities or use of the component that occurred as a result of the further processing.⁸⁷ Commerce has also stated that evidence of a change or changes to the physical qualities of a component as a result of further processing does not inevitably lead to the conclusion that further processing substantially transformed the component.⁸⁸

As indicated above, the window frame extrusions exported from China to the Dominican Republic consist entirely of extruded aluminum.⁸⁹ This essential component is not transformed as a result of any of the further processing that occurs in the Dominican Republic, because the jalousie shutter still consists of only extruded aluminum and fasteners.⁹⁰ Furthermore, as indicated above, the use of the window frame extrusion is not changed as a result of the further processing. Its sole purpose remains the manufacture of an aluminum jalousie shutter.⁹¹ Therefore, the essential qualities of the jalousie shutter are established in China where the

⁸² *Id.*

⁸³ See Circumvention Request at 9-10.

⁸⁴ *Id.* at 11.

⁸⁵ *Id.* at 10.

⁸⁶ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part*, 77 FR 63791 (October 17, 2012) and accompanying Issues and Decision Memorandum at Comment 1 (emphasis in original).

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ See Circumvention Request at 5.

⁹⁰ See Questionnaire Response at 4.

⁹¹ See Circumvention Request at 2.

window frame extrusion is made, and the nature and use of the window frame extrusion do not change as a result of that further processing. On that basis, we find that merchandise under consideration is not substantially transformed in the Dominican Republic. The significance of the further processing, for purposes of determining whether the essential component of the merchandise is substantially transformed, is minor.

3) The extent of processing

In its Circumvention Request, Air Master provided a list of the further processing occurring in the Dominican Republic.⁹² It describes the steps as cutting window frame extrusions to size and fastening them together with screws or rivets.⁹³ Aluvinsa, in its scope comments, provided a more complete outline of the further processing than that provided by Air Master.⁹⁴ According to Aluvinsa, the further processing consists of the following steps:

- a. Jamb preparation;
- b. Rocker preparation;
- c. Head preparation;
- d. Alfeizar preparation;
- e. Preparation of slats and lattice;
- f. Window assembly; and
- g. Quality process, labelling and packaging.⁹⁵

Upon review of the steps that Aluvinsa describes in its scope comments, together with the photographs Aluvinsa provided that accompany the description, we find that the further processing undertaken in the Dominican Republic is slightly more extensive than Air Master describes. In Aluvinsa's description, there is more cutting and punching performed than Air Master has described, and there is a "bending" process requiring a bending machine, which Air Master has not mentioned.⁹⁶ As indicated above, Aluvinsa also states it uses ten machines and 22 employees in the further processing of the window frame extrusions.⁹⁷

Nevertheless, even accepting Aluvinsa's description of its work process, we note that the process consists almost entirely of cutting, stamping, punching, bending, and assembling (the latter performed with screwdrivers or hammers). We find that these processes are not complex or extensive, especially when compared to the processes involved in the manufacture of aluminum extrusion profiles (*e.g.*, smelting, extruding). Accordingly, we conclude that the extent of further processing is not sufficiently complex to confer country-of-origin status for the jalousie shutters on the Dominican Republic.

⁹² See Circumvention Request at 13.

⁹³ *Id.* at 13.

⁹⁴ See Aluvinsa Scope Comments at "Manufacturing Process Diagram.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ See Aluvinsa Scope Comments at 2.

4) *The value added to the product*

We do not have data on the record to value the further processing described above, but we do have a description of the production of aluminum extrusions to which we can compare it. The description submitted by Air Master reads as follows:

1. Aluminum scrap and primary aluminum are smelted and converted into an aluminum billet.
2. The molten aluminum is subject to quality control sample testing using a spectrograph to maintain desired alloy.
3. The cast billet is heated in a homogenizing oven.
4. Billets are again heated and fed into an extrusion press.
5. A die of the desired shape is installed in the extrusion press and the semi-molten billet is pushed through the die forming the extrusion.
6. These extrusions are cut into lengths of usually between 16 feet and 24 feet.
7. They are bundled together and treated in an “aging” oven for 4 to 8 hours to accomplish the desired hardness.
8. The extrusions go to the powder paint line where they are pretreated, painted, and cured in an oven.
9. The painted extrusions are packaged in bundles and loaded in 40-foot containers for export.⁹⁸

Based on a comparison of the processes performed in China to those performed in the Dominican Republic, we find that the manufacturing process for aluminum window frame extrusions in China is more technologically complex and involves more advanced equipment than the further processing operations performed in the Dominican Republic to assemble window frame extrusions into jalousie shutters.⁹⁹ These are observable differences in the levels of production technology and equipment at play in China and the Dominican Republic. Therefore, although we cannot precisely quantify the value added in the Dominican Republic due to the limitations of record information, we nonetheless find that the apparent value added by the processing operations in the Dominican Republic does not rise to a level of substantial transformation.

Conclusion

We examined the language of the *Orders* and the description of the merchandise that formed the subject of the anti-circumvention request, as well as previous rulings made by Commerce. We find that the description of the products, the scope language, and prior rulings are, together, dispositive as to whether the products at issue are subject merchandise, in accordance with 19 CFR 351.225(k)(1). As such, we find that there is no need to examine the criteria of 19 CFR 351.225(k)(2).

The jalousie shutters at issue consist of window frame extrusions that have been further processed in the Dominican Republic. We find that they consist of aluminum extrusion

⁹⁸ See Circumvention Request at Attachment A.

⁹⁹ Compare Circumvention Request at Attachment A to Aluvinsa Scope Comments at Manufacturing Process Diagram.

components that are attached to form subassemblies, but, because they lack the crank and operating mechanism that would enable them to function as jalousie shutters, they are not “fully and permanently assembled and completed at the time of entry,” and, thus, do not qualify for the finished merchandise exclusion. For the same reason, they also do not qualify for the finished goods kits exclusion because they lack “at the time of importation, all of the necessary parts to fully assemble a final finished good.” For these reasons, we determine that the jalousie shutters at issue are within the scope of the *Orders*.

Furthermore, we also find that record evidence establishes that China is the country of origin, and that the further processing performed in the Dominican Republic does not amount to the “substantial transformation” necessary to designate the Dominican Republic as the country of origin. In examining the four criteria necessary to this substantial transformation analysis, we find that:

- The further processing does not put the jalousie shutters into a different class or kind of product;
- The further processing does not substantially transform the essential component of the jalousie shutters;
- The further processing is not complex or extensive; and
- The value added by the further processing is not large compared to the manufacturing of aluminum extrusions.

Commerce bases a substantial transformation determination on the totality of its findings.¹⁰⁰ Based on the totality of the findings here, we find China to be the country of origin.

Recommendation

Based upon the preceding analysis, we recommend finding that the aluminum jalousie shutters assembled in the Dominican Republic from window frame extrusions produced in China are subject to the *Orders*. We further recommend that, based on this scope finding, we terminate the anti-circumvention inquiries as moot.



Agree



Disagree

10/15/2019

X 

Signed by: JAMES MAEDER

EXHIBIT 14

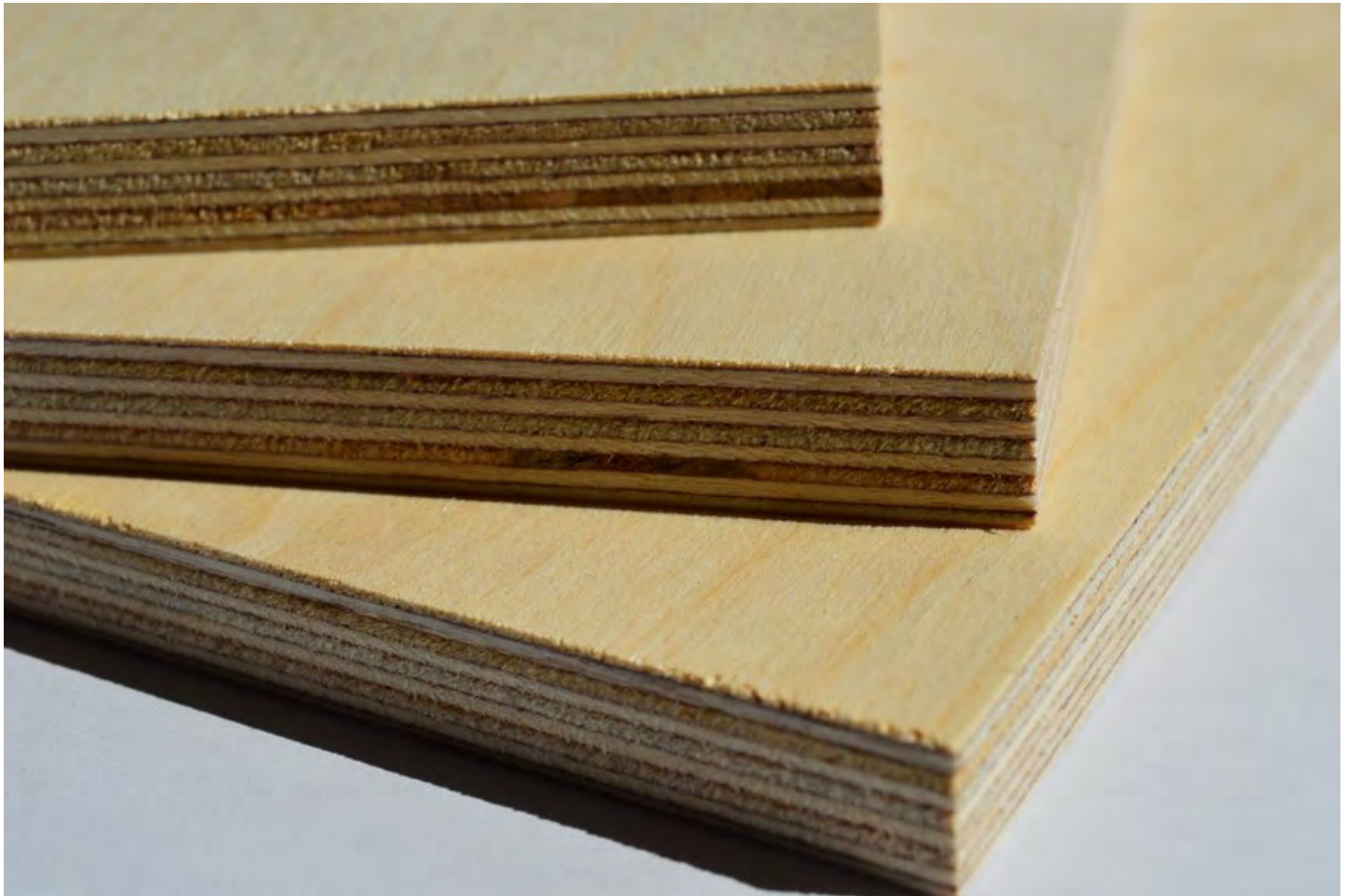
[MATERIALS](#) ▾ [ELECTRONIC KITS](#) ▾ [MICROBIT & ACCESSORIES](#) ▾ [CODING](#) ▾ [E-TEXTILES & CONDUCTIVE THREAD](#) ▾ [ROBOTICS](#) ▾

[COMPONENTS](#) ▾ [CLEARANCE \(HTTPS://WWW.KITRONIK.CO.UK/CLEARANCE.HTML\)](https://www.kitronik.co.uk/clearance.html)

[Kitronik Home Page \(https://www.kitronik.co.uk/\)](https://www.kitronik.co.uk/) > [Blog \(https://www.kitronik.co.uk/blog/\)](https://www.kitronik.co.uk/blog/) > Plywood: The Production Process

Plywood: The Production Process

[Plywood \(https://www.kitronik.co.uk/materials/laser-plywood.html\)](https://www.kitronik.co.uk/materials/laser-plywood.html) is a wood-based panel product comprised of a collection of veneers that are glued together with a resin. To sum up the production process; logs are peeled into veneers, the veneers are lathered in glue, laid up so that the grain direction of each veneer is perpendicular to its adjacent veneer, pressed together, trimmed and sanded.



But there is more to the production process than just that...

Step 1: The Forest



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step1_forest_800.jpg

It's important to us that all raw logs used in our plywood are sourced from legal and sustainable forest concessions. We only use mills who use the Timber Trade Federation's Responsible Purchasing Policy to ensure this.



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step1-the-forest_800.jpg

Once trees reach an acceptable level of maturity, they are felled by trained harvesters. Depending on the operation of the mill, vehicles like those in the image above can be used to select and fell trees using satellite imagery.

Step 2: Transport to the Mill

Logs are transported from the forest concession to the mill to be processed.



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step2_transport.jpg

Transportation comes with its own environmental issues in some instances, as forest areas are cleared to make room for roads and therefore new trees cannot grow.

Step 3: The Log Pond



https://www.kitronik.co.uk/wp-content/uploads/2015/12/step2_log_pond_800.jpg

On arrival at the mill, logs are stored in the Log Yard. Mills will use various methods to retain the moisture in the logs, many opting for sprinkler systems.

Logs will then eventually make their way to the Log Pond. Logs are submerged in water for an extended period of time so that they are easier to cut down to size and easier to peel. Some mills in colder climates have heated log ponds as the heat also improves the quality of the peeling; they refer to this as hydro-thermal processing.

Step 4: De-barking the Logs



(https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step4-de-barking_logs_800.jpg)

Before the logs are cut and peeled, the bark must be removed. Mills use industrial machines such as this to de-bark logs as they continue along the production line.

Step 5: Cutting the Logs



(https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step5_cutting_logs_800.jpg)

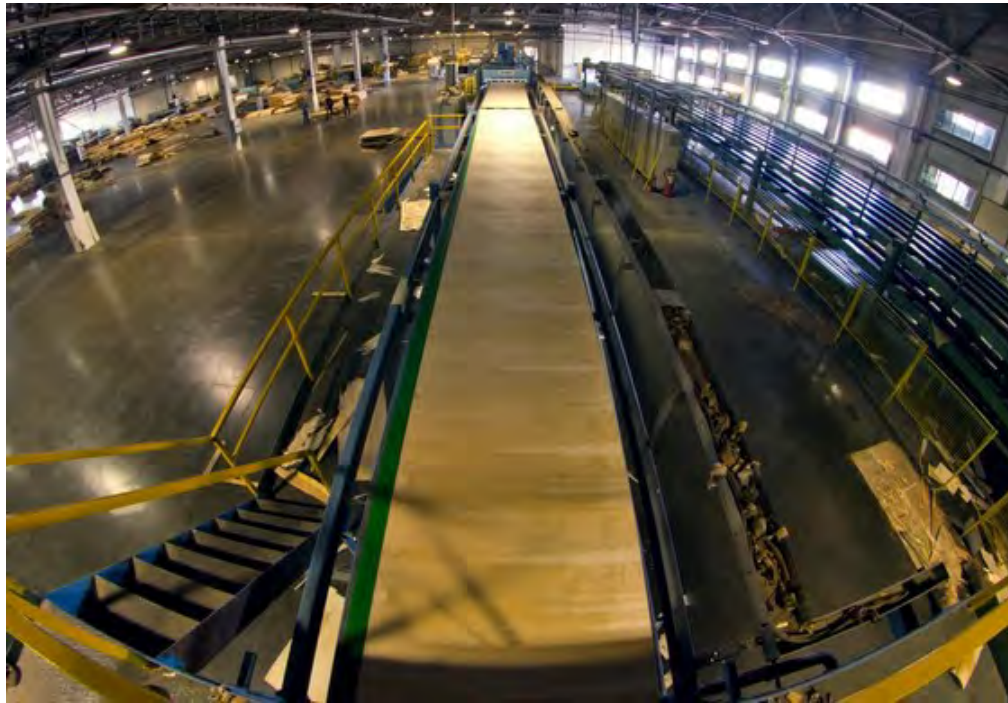
De-barked logs then move on to be cut to size. The size that the logs are cut to is usually dependent on the production at the time of cutting; finished panel size & grain direction play a part in the cutting of logs.

Step 6: Peeling the Logs

Logs are peeled using a rotary lathe. This peels the log in a manner similar to that of a pencil sharpener except the blade is completely parallel to the log at the time of cutting. You can see this process in action in the video above, and see them coming out of the back of the peeling machine straight onto a conveyor in the video below.

Step 7: Sizing and Grading

Once they've been peeled the resultant sheets are fed to the next step on a conveyor, as in the image below.



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step6_peeling_logs_800.jpg

Following peeling, the veneers are moved along the production line in long streams. They need to be cut to size and go through an initial grading process. Grading is especially important in regards to Birch Plywood so the majority of mills use scanning technology to check for defects in the veneers, cutting to the required sizes and then separating potential face veneers from core veneers.

Unlike mills from Eastern Europe and the Baltics, countries like China will peel the veneers in smaller squares and then stitch them to the appropriate size as a more cost effective (but quality reducing) method.



(https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step7_sizing_and_grading_800.jpg)



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step7_laser_scanner_800.jpg

Step 8: Drying the Veneers



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step8_drying_veneers_800.jpg

At this point, the veneers are still wet from being soaked in the log pond. The veneers must be dried for a variety of reasons; from protecting the wood from fungal decay to increasing the mechanical properties of the finished board.

Most mills use large, industrial dryers, often connecting to the log peeler via conveyor belt; however, more frugal methods can also be used. For example, some log peelers in China leave the veneers out in the open to dry throughout the day.

Step 9: Repairing Defects



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step9_repairing_defects_800.jpg

Once dry, veneers need to be repaired where defects exist. In the case of Birch Plywood for example, open knots (where branches used to be) can be 'plugged' in. Splits in veneers on plywood can also be filled in and mis-sized veneers can be finger-jointed together (see above).

Some mills have a machine that scans the veneers and automatically plugs open holes or knots. (See below).

Step 10: Application of Glue and Lay-Up



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step10_gule_and_lay_up_800.jpg

Veneers are run through a gluing machine which essentially rolls the glue onto the face and back of the veneer. They are then placed on top of an unglued veneer so that the stack alternates; Glued, Unglued, Glued, Unglued and so on.

Step 11: Cold Pressing



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step11_cold_pressing_800.jpg

Cold Pressing occurs after glue has been applied in order to prepare the veneers for Hot Pressing. This works to flatten out the veneers and ensure the glue is distributed across the veneers evenly.

Step 12: Hot Pressing (Daylight Press)



(https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step12_hot_press_800.jpg)

This part of the production process is where the actual panels begin to take shape. Multiple panels are loaded into the daylight press. The Daylight Press then compresses and maintains heated pressure on the boards for a long period of time. This creates and maintains required contact between the glue and veneers. It also decreases tension in the glue line and the thickness of glue layer.

Step 13: Trimming, Sanding and Finishing



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step13_trimming_and_pressing_800.jpg

Following Hot Pressing, the board is left to stabilise and cool down before further processing. Then it is a case of trimming down any excess veneer so the board has square edges, then the boards are most commonly sanded using a large, industrial sander.

Step 14: Quality Control

The final product has to be assessed for quality but it wouldn't be very efficient just to wait until the end of the process to find a large problem with production. For this reason, mills control their production by carrying out a number of tests on different sections of the production process e.g. testing moisture levels, formaldehyde release, durability, etc.



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step14_gc.jpg

Many mills have what is called a Factory Production Control certificate which means they have been audited by a third party and had their production process approved to relevant European standards.

Step 15: Packaging



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step15_packaging_800.jpg

Finished products are then stacked up and banded together. Any relevant CE marks are printed on the packaging.

Step 16: Delivery



https://www.kitronik.co.uk/wp/wp-content/uploads/2015/12/step16_delivery_800.jpg

We take delivery of plywood weekly, ready to despatch to you!

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EXHIBIT 15

**ENTIRE EXHIBIT
NOT CAPABLE OF
PUBLIC SUMMARY**