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March 17, 2020

ELECTRONIC FILING/ACCESS

The Honorable Wilbur Ross
Secretary of Commerce
Room 18022
U.S. Dept. of Commerce
Washington, D.C. 20230

A-570-051/C-570-052
Scope Inquiry
CBP EAPA Inv. 7252

AD/CVD Operations

Public Version
Business proprietary information
deleted on page 2 and Exhibit 1.

May be released under APO.

**Re: *Hardwood Plywood from the People's Republic of China*
Scope Inquiry Questionnaire – Notice of Difficulties in Responding**

Dear Secretary Ross:

On behalf of our client, Vietnam Finewood Company Limited (“Finewood”), a Vietnamese producer of hardwood plywood, we hereby give notice to the Department of Finewood’s difficulties in responding to the Department’s questionnaire issued on March 12, 2020 in the above referenced scope inquiry. *See* 19 U.S.C. § 1677m(c)(1). Section 1677m(c)(1) provides:

If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the

requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

Id.

Finewood is experiencing difficulties responding to the Department's questionnaire because the company ceased operations in [] and company personnel has been dismissed. *See Exhibit 1.* The Company therefore no longer exists. Finewood's previous owners and managers are unable to access the company records, because they are back in China and no longer in Vietnam, and would be quarantined even if they were to attempt to re-enter Vietnam to retrieve the company records. Moreover, air travel is generally considered unsafe at this time when global containment efforts are ramping up.

Finewood also submits that the Department's questions support an anti-circumvention inquiry rather than the scope inquiry requested by U.S. Customs and Border Protection ("CBP"). Finewood notes that in its initiation notice for this scope inquiry, the Department invited interested parties to file a request for an anti-circumvention inquiry. *See Dep't Commerce, Certain Hardwood Plywood From the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Scope Inquiry*, 85 Fed. Reg. 3024, 3025 (Jan. 17, 2020). No party filed such a request by the 30-day deadline set by the Department. Finewood therefore understands that the Department will not exceed the extent of the scope referral that CBP set forth in its scope referral, namely whether two-ply cores of Chinese origin are within the scope of the AD and CVD Orders on hardwood plywood from China, which is a request to be considered under the plain scope language and 19 CFR § 351.225(k)(1). *See Dep't Commerce, Memorandum 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). In other words, the Department specifically asked the interested parties whether they believed anti-circumvention inquiries should play any role in this segment but no interested parties agreed by filing comments to that effect. Accordingly, the Department should retract its questionnaire insofar as most of the data requested is responsive to the circumvention inquiry; yet the Department has not initiated a circumvention inquiry either under 19 U.S.C. § 1677j to date.

The Department's questions directed at Finewood are particularly inappropriate because the Department is currently considering an anti-circumvention allegation file by Petitioner concerning Vietnam-wide circumvention of the Orders. Therefore, any effort and resources that the Department expends directed only at Finewood would certainly be duplicative to the Department's considerations of Petitioner's country-wide scope and circumvention ruling request, which seems of much greater concern to petitioners based on their failure to comment in this segment and their large circumvention petition for a new segment. *See* Ltr. from Wiley Rein on behalf of the Coalition for Fair Trade in Hardwood Plywood re: *Certain Hardwood Plywood Products from the People's Republic of China: Request for Scope Ruling/Anti-Circumvention Ruling* (February 25, 2020).

Finally, the Department's questions also essentially duplicate Customs and Border Protection's ("CBP") questions to Finewood in the underlying EAPA investigation 7252. During the 360-day CBP investigation, Finewood answered all of CBP's questions in an initial comprehensive questionnaire response and five burdensome supplemental responses, including extensive supporting documentation. CBP verified Finewood's assertions and documents without material discrepancy in an on-site verification in Vietnam last year. Finewood therefore refers the Department to CBP's investigation record documents, which, in the meantime, should

provide answers to the vast majority of the Department's questions during this time that Finewood itself is experiencing extreme difficulties.

If the Department does not retract its questionnaire, Finewood requests a 60-day extension of time to answer it. As of now, Finewood frankly is unsure how it can access its records at this time in light of the unique global health threats presented and the particular circumstances that the company had been terminated and there are no staff and employees.

* * *

Certain information contained herein is business confidential data that is proprietary. This information is enclosed with brackets (“[]”). Disclosure of this information would cause substantial competitive and commercial harm to the parties. Such data is marked “Contains Proprietary Information.” Confidential treatment, subject to administrative protective order, is requested pursuant to 19 C.F.R. §351.105(c).

Information marked as business proprietary has been so marked for one or more of the following reasons, in accordance with 19 C.F.R. §351.105(c):

- (1) Business or trade secrets concerning the nature of a product or production process;
- (2) Production costs (but not the identity of the production components unless a particular component is a trade secret);
- (3) Distribution costs and channels of distribution;
- (4) Terms of sale (but not terms of sale offered to public);
- (5) Prices of individual sales, likely sales, or other offers (but not components of prices, such as transportation, if based on published schedules, dates of sale, product descriptions except business or trade secrets described in term 1 above, or order numbers);
- (6) Names of particular customers, distributors, or suppliers (but not destination of sale

or designation of type of customer, distributor, or supplier, unless the designation of designation would reveal the name);

- (7) In an antidumping proceeding, the exact amount of the dumping margin on individual sales;
- (8) In a countervailing duty proceeding, *** {not applicable}
- (9) the names of particular persons from whom business proprietary information was obtained;
- (10) The position of a domestic producer or workers regarding a petition;
- (11) Any other specific business information the release of which to the public would cause substantial harm to the competitive position of the submitter.

The following lists the pages in which the business proprietary information appears and the reason (referenced by the same number as listed above) that proprietary treatment is requested for such information.

| | <u>Reason Number</u> |
|-----------|----------------------|
| Page 2 | 11 |
| Exhibit 1 | 11 |

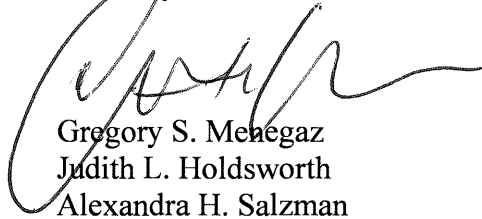
In accordance with the Department’s instructions, we are filing this submission electronically. This submission includes statements of fact, documents, and data as defined by 19 C.F.R. § 351.102(b)(21)(i). We are delivering APO versions to all counsel on the APO list who have not waived service.

* * *

Thank you for your consideration of Finewood’s difficulties in responding to the Department’s questionnaire. We look forward to receiving the Department’s guidance in this matter. We hope that the Department, which is obviously cooperating with the Customs and Border Protection (“CBP”) on this matter, will consider Finewood’s extensive questionnaire

responses to CBP to be adequate for its purposes if it insists on pursuing this line of inquiry of Finewood at this time.

Sincerely,



Gregory S. Menegaz
Judith L. Holdsworth
Alexandra H. Salzman

Exhibit 1

EXHIBIT NOT SUSCEPTIBLE TO
PUBLIC SUMMARY

REPRESENTATIVE CERTIFICATION

I, **Alexandra H. Salzman**, with **deKieffer & Horgan**, Counsel to **Vietnam Finewood Company Limited**, certify that I have read the attached submission, **Scope Inquiry Questionnaire – Notice of Difficulties in Responding** filed on **March 17, 2020** pursuant to the **Scope Inquiry: CBP EAPA Inv. 7252 under the Antidumping and Countervailing Duty Orders on Hardwood Plywood from the People’s Republic of China, A-570-051/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 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:



Date:

3/17/20

PUBLIC CERTIFICATE OF SERVICE

**Hardwood Plywood
from the People's Republic of China
A-570-051/C-570-052
SCO- Scope Inquiry
SCO - CBP EAPA Inv. 7252**

The undersigned hereby certifies that a copy of the foregoing submission was served upon the following parties by first-class mail on March 17, 2020:

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/s/ Betsy Baber

Betsy Baber