



June 29, 2020

**PUBLIC VERSION**

**EAPA Case Number:** 7321

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**Re: Notice of Determination as to Evasion**

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Dear Mr. Menegaz and Mr. Brightbill,

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) Investigation 7321, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that InterGlobal Forest, LLC (InterGlobal); American Pacific Plywood, Inc. (American Pacific); and U.S. Global Forest Inc. (U.S. Global) (collectively, the Importers) entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-051 and C-570-052 into the customs territory of the United States through evasion.<sup>1</sup> Substantial evidence demonstrates that the Importers imported certain hardwood plywood products (plywood) into the United States from the People's Republic of China (China) through Cambodia and claimed that the merchandise was Cambodian-origin. The Importers did not declare that the merchandise was subject to the AD/CVD orders upon entry and, as a result, no cash deposits were collected on the merchandise.

**Background**

On April 12, 2019, the Coalition for Fair Trade of Hardwood Plywood (the Alleger), a business association of domestic producers of covered merchandise, submitted allegations to CBP that InterGlobal, American Pacific, and U.S. Global were evading the AD/CVD orders on plywood

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<sup>1</sup> See *Certain Hardwood Plywood Products from the People's Republic of China*, 83 FR 504 (January 4, 2018) (AD order); see also *Certain Hardwood Plywood Products from the People's Republic of China*, 83 FR 513 (January 4, 2018) (CVD order) (collectively, the AD/CVD orders).

from China.<sup>2</sup> On June 5, 2019, CBP acknowledged receipt<sup>3</sup> of the allegations filed by the Alleger.<sup>4</sup>

CBP found the information provided in the allegations reasonably suggested that InterGlobal, American Pacific, and U.S. Global entered covered merchandise for consumption into the customs territory of the United States through evasion. Consequently, on June 26, 2019, CBP initiated EAPA investigations on the Importers pursuant to Title IV, section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.<sup>5</sup> After the initiation of these investigations, CBP issued CF-28 questionnaires to each importer concerning certain entries of plywood and requested documentation pertaining to the entries and production of their merchandise.<sup>6</sup> Additionally, CBP added three memoranda to the administrative record that contained documentation related to Cambodian Happy Home Wood Products Co., Ltd.'s (Happy Home) and to site visits CBP conducted at Happy Home's and LB Wood Cambodia Co., Ltd.'s (LB Wood) (collectively, the Manufacturers) facilities in June 2018.<sup>7</sup>

After evaluating all information on the record at the time, CBP determined that reasonable suspicion existed that plywood imported into the United States by the Importers was manufactured in China instead of Cambodia. Consequently, on October 1, 2019, CBP issued a notice of initiation of investigation and interim measures to the Importers and the Alleger.<sup>8</sup> This

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<sup>2</sup> See Letter from the Alleger, "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 Alleger, "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 Alleger, "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 Alleger, "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 Alleger, "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 Alleger, "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 Alleger, "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).

<sup>3</sup> 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).

<sup>4</sup> See Revised InterGlobal Allegation at 5 and Exhibit 1. A majority of the members of the Coalition for Fair Trade of Hardwood Plywood are domestic producers of plywood, and thus, meet the definition of an interested party that is permitted to submit an EAPA allegation pursuant to 19 USC 1517(a)(6)(A)(iv), 19 CFR 165.1(4), and 19 CFR 165.11(a).

<sup>5</sup> See also 19 USC 1517(b)(1); see also 19 CFR 165.15; see also CBP Memorandum, "Initiation of Investigation for EAPA Case Number 7321 – InterGlobal Forest, LLC," dated June 26, 2019; see also CBP Memorandum, "Initiation of Investigation for EAPA Case Number 7323 – American Pacific Plywood, Inc.," dated June 26, 2019; see also CBP Memorandum, "Initiation of Investigation for EAPA Case Number 7327 – U.S. Global Forest, Inc.," dated June 26, 2019.

<sup>6</sup> 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.

<sup>7</sup> 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).

<sup>8</sup> See Letter from CBP, "Notice of Initiation of Investigation and Interim Measures - EAPA Cons. Case 7321," dated October 1, 2019.

notice informed the Importers and the Allegor of the initiation of the investigations and of CBP's decision to impose interim measures based upon a reasonable suspicion of evasion.<sup>9</sup> The notice also informed the Importers and the Allegor that CBP consolidated the three separate investigations into one investigation, and established that 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.<sup>10</sup> As part of interim measures, CBP suspended the liquidation of the Importers' entries entered after the initiation of the investigation pursuant to its authority under 19 USC 1517(e). After interim measures, CBP continued to investigate the allegations by issuing requests for information (RFI) to the Importers and Manufacturers.<sup>11</sup>

In its RFI response, LB Wood stated that it is [ ] percent owned by [ ], which is a [ ].<sup>12</sup> LB Wood further stated that it was established in October 2017 and began production in [ ].<sup>13</sup> LB Wood maintained that it produces plywood from logs and individual veneers at its facility in Cambodia's Sihanoukville Special Economic Zone (SEZ), then transports the plywood to the Cambodian port, and finally loads it onto the vessel.<sup>14</sup> LB Wood stated that it sources [ ] for use in its plywood production.<sup>15</sup> LB Wood provided documentation indicating that it imported [ ] raw materials, such as [ ] and [ ], from [ ].<sup>16</sup> This documentation indicated that these suppliers are [ ] and supplied [ ] percent of LB Wood's raw materials by value.<sup>17</sup>

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<sup>9</sup> *Id.*; see also 19 USC 1517(e); see also 19 CFR 165.24.

<sup>10</sup> See 19 USC 1517(b)(5); see also 19 CFR 165.13; see also 19 CFR 165.2.

<sup>11</sup> See Letter from CBP, "Request for Information with regards to Enforce and Protect Act investigation 7321 ... InterGlobal, LLC," dated October 1, 2019; see also Letter from CBP, "Request for Information with regards to Enforce and Protect Act investigation 7321 ... American Pacific Plywood, Inc.," dated October 1, 2019; see also Letter from CBP, "Request for Information with regards to Enforce and Protect Act investigation 7321 ... U.S. Global Forest, Inc.," dated October 1, 2019; see also Letter from CBP, "LB Wood Cambodia Co., Ltd. Request for Information," dated October 4, 2019; see also Letter from CBP, "Cambodia Happy Home Wood Products Co. Ltd. Request for Information," dated October 4, 2019; see also Letter from CBP, "Supplemental Request for Information to Manufacturer with regards to Enforce and Protect Act investigation 7321 of whether Cambodia Happy Home Wood Products Co. Ltd. ...," dated November 21, 2019; see also Letter from CBP, "Supplemental Request for Information to Importer with regards to Enforce and Protect Act investigation 7321 of whether U.S. Global Forest, Inc. ...," dated November 21, 2019; see also Letter from CBP, "Supplemental Request for Information to Importer with regards to Enforce and Protect Act investigation 7321 of whether InterGlobal Forest LLC ...," dated November 22, 2019; see also Letter from CBP, "Supplemental Request for Information to Importer with regards to Enforce and Protect Act investigation 7321 of whether American Pacific Plywood, Inc. ...," dated November 22, 2019; see also Letter from CBP, "Supplemental Request for Information to Manufacturer with regards to Enforce and Protect Act investigation 7321 of whether LB Wood (Cambodia) Co., Ltd. ...," dated November 22, 2019.

<sup>12</sup> See Letter from LB Wood, "EAPA Con. Case No. 7321 LB Wood Questionnaire Response," dated November 8, 2019 (LB Wood RFI) at Exhibit 2.

<sup>13</sup> *Id.* at 8 and Exhibit 3. LB Wood's business registration certificate indicates that it was registered on [ ]; see also Letter from LB Wood, "EAPA Con. Case No. 7321 - LB Wood Supplemental Questionnaire Response," dated December 16, 2019 (LB Wood Supplemental RFI) at 3.

<sup>14</sup> See LB Wood RFI at 2-3; see also LB Wood Supplemental RFI at 1.

<sup>15</sup> See LB Wood RFI at 2.

<sup>16</sup> *Id.* at Exhibit 12.1.

<sup>17</sup> *Id.* at Exhibits 12.1 and 12.2.

In its RFI response, Happy Home stated that it is [ ] percent owned by [ ].<sup>18</sup> [ ]<sup>19</sup> [ ] are located in [ ] and [ ] is located in [ ].<sup>20</sup> Happy Home stated that it was incorporated in [ ] and began producing plywood in [ ].<sup>21</sup> Happy Home claimed that it produced plywood from individual veneers in the Sihanoukville SEZ, then delivered the finished merchandise to the port, and finally loaded it onto the designated vessel.<sup>22</sup> Happy Home stated that [ ]<sup>23</sup> [ ]<sup>24</sup> All of Happy Home's [ ] suppliers accounted for [ ] percent of its imported raw materials by value.<sup>25</sup>

In December 2019 - January 2020, CBP began planning to verify LB Wood and Happy Home at their facilities in Cambodia. On January 31, 2020, Happy Home notified CBP that it had “[ ]”.<sup>26</sup> On February 11, 2020, CBP postponed its verification of LB Wood and Happy Home, which was originally scheduled for February 17-22, 2020.<sup>27</sup> Additionally, on February 11, 2020, CBP determined that this investigation was extraordinarily complicated due to the novelty of the issues presented and extended the determination deadline by 60 days.<sup>28</sup> CBP notified all parties to the investigation that it was cancelling verification on May 8, 2020.<sup>29</sup> On May 14, 2020, the Importers and Manufacturers submitted written arguments.<sup>30</sup> The Alleger submitted a response to the written arguments on May 29, 2020.<sup>31</sup>

### **Analysis as to Evasion**

Under 19 USC 1517(c)(1)(A), to reach a final determination as to evasion in this case, CBP must, “make a determination, based on substantial evidence, with respect to whether such

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<sup>18</sup> See Letter from Happy Home, “EAPA Con. Case No. 7321 Happy Home Questionnaire Response,” dated November 8, 2020 (Happy Home RFI) at Exhibit 2.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at Exhibit 3; see Letter from Happy Home, “EAPA Con. Case No. 7321 Happy Home Supplemental Questionnaire Response,” dated December 16, 2019 (Happy Home Supplemental RFI) at 3.

<sup>22</sup> See Happy Home RFI at 2-3, 5; see also Happy Home Supplemental RFI at 1.

<sup>23</sup> See Happy Home RFI at 3.

<sup>24</sup> *Id.* at Exhibit 2.

<sup>25</sup> *Id.* at Exhibit 11.

<sup>26</sup> See CBP Memorandum, “Adding Information to the Administrative Record of EAPA Cons. Case 7321,” dated February 10, 2020.

<sup>27</sup> See Email from CBP, “EAPA 7321 - Extension of the Written Arguments Deadline,” dated February 11, 2020.

<sup>28</sup> See Letter from CBP, “Notice of Extension of Final Determination,” dated February 11, 2020.

<sup>29</sup> See Email from CBP, “RE: EAPA 7321 - Extension of the Written Arguments Deadline,” dated May 8, 2020.

<sup>30</sup> See Letter from the Importers and Manufacturers, “EAPA Con. Case No. 7321 – Respondents’ Written Arguments,” dated May 14, 2020 (Written Arguments).

<sup>31</sup> See Letter from the Alleger, “EAPA Investigation No. 7321: Rebuttal Comments,” dated May 29, 2020.

covered merchandise entered into the customs territory of the United States through evasion.”<sup>32</sup> 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 of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise.”<sup>33</sup> As discussed below, the record of this investigation indicates that covered merchandise entered the United States through evasion. Further, substantial evidence indicates that InterGlobal’s, American Pacific’s, and U.S. Global’s imports were entered through evasion, resulting in the avoidance of applicable AD/CVD deposits or other security.

### *LB Wood*

The record evidence shows that not only was LB Wood likely established with a goal to avoid paying AD/CVD duties on Chinese plywood, its location in Cambodia helped facilitate such evasion. According to record responses, Commerce’s imposition of AD/CVD duties on plywood from China and their magnitude prompted LB Wood’s [ ] to set up operations in Cambodia to avoid paying AD/CVD duties. [ ], is an [ ]

[ ].<sup>34</sup> On April 25, 2017, Commerce imposed a 9.89 percent all-others rate in its preliminary CVD determination on plywood from China.<sup>35</sup> On June 23, 2017, Commerce imposed a 57.07 percent cash deposit rate on [ ] in its preliminary AD determination on plywood from China.<sup>36</sup> [ ]’s Chinese-origin plywood was therefore subject to a high combined AD/CVD rate. [ ] registered LB Wood as a business in Cambodia on [ ], only [ ] days after the preliminary AD determination.<sup>37</sup> The fact that [ ] was subject to a high preliminary AD/CVD rate, in addition to the timing of LB Wood’s establishment shortly after the imposition of preliminary AD/CVD rates, indicates that [ ] had sufficient reason to establish a facility in Cambodia to evade the AD/CVD duties applied to Chinese plywood.

LB Wood claims that it began plywood production in [ ] that Commerce issued its final AD/CVD determinations on

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<sup>32</sup> Substantial evidence is not defined in the statute. However, the Federal Circuit has stated that “substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” See *A.L. Patterson, Inc. v. United States*, 585 Fed. Appx. 778, 781-782 (Fed. Cir. 2014) (quoting *Consol. Edison Co. of N.Y. v. NLRB*, 305 U.S. 197, 229 (1938)).

<sup>33</sup> See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

<sup>34</sup> See LB Wood RFI at Exhibit 2.

<sup>35</sup> See *Certain Hardwood Plywood Products from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 82 FR 19022 (April 25, 2017); see also *Certain Hardwood Plywood Products from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017). The “all-others” rate applies to all Chinese producers of plywood that are not specifically excluded or issued an individual CVD rate.

<sup>36</sup> *Id.*

<sup>37</sup> See LB Wood RFI at Exhibit 3.

plywood from China on November 16, 2017.<sup>38</sup> LB Wood’s first shipment to the United States occurred on [ ], to InterGlobal on [ ], and to American Pacific on [ ].<sup>39</sup> This timeline demonstrates that LB Wood’s relationship with American Pacific and InterGlobal began only [ ] the January 2018 imposition of the AD/CVD orders on Chinese plywood. Additionally, InterGlobal and American Pacific’s relationship with LB Wood continued throughout the period of investigation (POI). From the beginning of the POI, June 5, 2018, until November 2019, InterGlobal and American Pacific accounted for [ ] entries ([ ] percent by value) and [ ] entries ([ ] percent by value), respectively, out of LB Wood’s [ ] total entries into the United States.<sup>40</sup>

LB Wood is located in the Sihanoukville SEZ, which China and Cambodia constructed under China’s Belt and Road Initiative to promote the interests of Chinese and Cambodian businesses.<sup>41</sup> Businesses in the Sihanoukville SEZ are located near Cambodia’s only deep-water port and have easier access to raw materials shipped from China than businesses located further inland.<sup>42</sup> Correspondingly, LB Wood sourced most of its raw materials, [ ] percent by value, from [ ].<sup>43</sup> LB Wood also sourced some of its raw materials from [ ].<sup>44</sup> Thus, LB Wood sourced raw materials almost exclusively from [ ], which could easily supply LB Wood with Chinese-origin veneers, cores, or plywood.

On June 6, 2018, CBP’s [ ] for wood products, [ ], visited LB Wood’s factory in the Sihanoukville SEZ.<sup>45</sup> [ ] stated that she observed [ ] plywood at LB Wood’s factory and noted that [ ] and [ ] are temperate woods that do not grow well in Cambodia’s tropical climate.<sup>46</sup> She further stated that Cambodian factories could produce plywood from raw materials composed of these temperate woods; however, the Cambodian factories lack the sophistication to produce plywood that is even, without veneer overlaps, gaps, and voids.<sup>47</sup> She noted that she believed the plywood she observed at LB Wood’s facility in Cambodia was made in China because it was made from a temperate wood, [ ], and had no veneer overlaps, gaps, and voids.<sup>48</sup> In addition, LB Wood’s factory had few employees and not much manufacturing at the time of her visit, an

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<sup>38</sup> 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); 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).

<sup>39</sup> See CBP Memorandum, “Adding Information to the Administrative Record of EAPA Cons. Case 7321,” dated January 6, 2020 (January 6 Memorandum) at 12-13.

<sup>40</sup> *Id.* at 12-13.

<sup>41</sup> See LB Wood RFI at 3-5; see also Revised InterGlobal Allegation at Exhibit 8; see also Revised American Pacific Allegation at Exhibit 9; see also Second Revised U.S. Global Allegation at Exhibit 9.

<sup>42</sup> See Revised InterGlobal Allegation at Exhibits 7-8; see also Revised American Pacific Allegation at Exhibits 8-9.

<sup>43</sup> See LB Wood RFI at Exhibit 12.1.

<sup>44</sup> *Id.* at 6-7 and Exhibit 2; see also LB Wood Supplemental RFI at Exhibit SQ1-4.

<sup>45</sup> See September 12 Memorandum at 14. [ ]’s position as CBP’s [ ] for wood products utilizes her subject matter expertise on wood products. This position carries with it the ability to make authoritative pronouncements pertaining to whether wood products are in or out of scope.

<sup>46</sup> *Id.* at 2, 14, and 20-21.

<sup>47</sup> *Id.* at 2 and 14.

<sup>48</sup> *Id.* at 14 and 20-21.

additional indication of that the plywood was not produced in that factory.<sup>49</sup> Furthermore, photographs from the June 2018 visit showed multiple pallets of [ ] plywood.<sup>50</sup> However, [ ] noted that LB Wood’s [ ] “was small, broken into multiple pieces, and covered in a thick layer of dust,” indicating that any [ ] plywood leaving LB Wood’s factory prior to the June 2018 visit was not [ ] there.<sup>51</sup>

Contrary to the observations of the June 2018 site visit, LB Wood contends that it thoroughly documented its production and had the capacity to produce all the plywood that it sold to the United States at all times. While LB Wood appears to possess machinery capable of producing some amount of plywood in Cambodia, the record evidence, including LB Wood’s lack of a functioning [ ] and the inconsistencies of its production records, shows that its machinery likely could not produce the entire quantity of plywood that it claimed. LB Wood’s production manager provided calculations of its machinery’s production capacity. Due to the significant incentive for bias, machinery production figures are unreliable when they originate from company personnel estimates and lack substantiating evidence. LB Wood neither substantiated nor documented its claims concerning the production capacity of its machinery.<sup>52</sup> Therefore, CBP does not consider the calculations of its machinery’s production capacity to be reliable.

Moreover, LB Wood’s record statements and documentation contain various inconsistencies that cast doubt on their overall reliability. LB Wood claimed that its owner [ ]

[ ] and “[ ]”<sup>53</sup> However, elsewhere, LB Wood states that its owner [ ]

[ ]<sup>54</sup> A review of LB Wood’s documentation indicates that [ ]<sup>55</sup> The [ ] occurred from [ ], to [ ], and totaled [ ]<sup>56</sup> Additionally, [ ] CBP observed an email pertaining to a payment from InterGlobal and addressed to “[ ]” with “[ ]” cc’ed.<sup>57</sup> The email was dated [ ]; pertained to LB Wood plywood that InterGlobal purchased, “[ ]”; and yet it did not contain any LB Wood email addresses.<sup>58</sup> CBP observed similar emails pertaining to the sale of LB Wood’s plywood to American Pacific.<sup>59</sup> This contradictory documentation calls into

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<sup>49</sup> *Id.* at 2 and 14.

<sup>50</sup> *Id.* at 14 and 20-21.

<sup>51</sup> *Id.* at 14-18.

<sup>52</sup> See LB Wood RFI at Exhibit 14; see also LB Wood Supplemental RFI at 6.

<sup>53</sup> See LB Wood RFI at 7 and Exhibit 2.

<sup>54</sup> *Id.* at 6 and Exhibit 2.

<sup>55</sup> See LB Wood Supplemental RFI at Exhibit SQ1-4.

<sup>56</sup> *Id.*

<sup>57</sup> See Letter from InterGlobal, “EAPA Con. Case No. 7321 InterGlobal Forest Questionnaire Response,” dated October 28, 2019 (InterGlobal RFI) at Exhibit 16, page 2198.

<sup>58</sup> *Id.*

<sup>59</sup> See Letter from American Pacific, “EAPA Con. Case No. 7321 – American Pacific Plywood Questionnaire Response,” dated October 28, 2019 (American Pacific RFI) at Exhibit 17, pages 35, 44, 54, 65, and 128.

question the accuracy of LB Wood’s claims concerning [ ]’s lack of involvement in the sale or production of LB Wood’s plywood.

Additionally, LB Wood provided payroll sheets and financial reports, in which CBP observed certain inconsistencies.<sup>60</sup> Specifically, CBP noted a difference of \$[ ] between the payroll sheets and the salary payable on the balance sheet from [ ].<sup>61</sup> LB Wood had an average of [ ] employees during this period; therefore, this difference is the equivalent of about [ ] employees.<sup>62</sup>

| Payroll Source Document        | Payroll Amount |
|--------------------------------|----------------|
| Payroll Sheets                 | \$[ ]          |
| Balance Sheet (Salary Payable) | \$[ ]          |
| Difference                     | \$[ ]          |

Inexplicably, several payroll sheets indicated that they pertained to a company named “[ ]”.<sup>63</sup> In addition to the dearth of employees observed during the June 2018 site visit, these inconsistencies create further uncertainty as to the total staff employed at LB Wood and whether the company had enough workers to produce the amount of plywood that it claimed.

In its RFI responses, LB Wood provided warehouse-in tickets and warehouse-out tickets.<sup>64</sup> Among these tickets, there was a [ ] percent difference between the total veneer sheets going into the warehouse and the total number going out.<sup>65</sup> This difference was not accounted for elsewhere in LB Wood’s documentation. Some of this difference may come from LB Wood withdrawing veneer sheets from existing inventory. In the absence of record documents indicating LB Wood’s existing inventory, it is uncertain whether the difference is due to existing inventory or whether it is a discrepancy.

|               | Veneer Sheets | Time Period |
|---------------|---------------|-------------|
| Warehouse-In  | [ ]           | [ ] to [ ]  |
| Warehouse-Out | [ ]           | [ ] to [ ]  |
| Difference    | [ ]           |             |

However, LB Wood’s production quantity also did not tie to the quantity it reported for its purchase of raw materials.<sup>66</sup> This difference could also indicate a discrepancy because the raw materials purchase quantity should tie to the warehouse-in tickets. In addition, CBP found seven

<sup>60</sup> See LB Wood RFI at Exhibit 10; see also LB Wood Supplemental RFI at Exhibits SQ1-6 through SQ1-8.

<sup>61</sup> *Id.*

<sup>62</sup> See LB Wood Supplemental RFI at Exhibit SQ1-11. The calculations are as follows: 1) The number of LB Wood employees for each month from June 2018-September 2019 was averaged, leading to an average of [ ] employees per month. 2) The difference amount, [ ], divided by Payroll Sheets amount, [ ], equals [ ] percent. 3) The difference as a percentage of Payroll sheets, [ ] percent, was multiplied by the average number of LB Wood employees, [ ], to determine that the difference amount was the equivalent of about [ ] employees.

<sup>63</sup> See LB Wood RFI at Exhibit 10, pages 112, 114, and 117.

<sup>64</sup> See LB Wood Supplemental RFI at Exhibits SQ1-1 and SQ1-2.

<sup>65</sup> *Id.* at Exhibits SQ1-1 and SQ1-2.

<sup>66</sup> See LB Wood RFI at Exhibit 12.1; see also LB Wood Supplemental RFI at Exhibits SQ1-1 and SQ1-2.



repeat ticket numbers, with different withdrawal amounts, among the warehouse-out tickets, which could also signal the unreliability of the documents placed on the record.<sup>67</sup>

LB Wood provided various other documents pertaining to its production, sale, and exportation of plywood to InterGlobal.<sup>68</sup> Using these documents, CBP reviewed several transactions, from initial purchase of raw materials to customer payments for finished merchandise. These reviews pertained to invoice [ ]/entry [ ]6164, invoice [ ]/entry [ ]7576, invoice [ ]/entry [ ]8194, and invoice [ ]/entry [ ]8376. After examining these documents, CBP noticed certain factual discrepancies. In each of the four reviews, the manufacturing dates on the California Air Resources Board (CARB) certificates did not match the manufacturing dates in the production records.<sup>69</sup> For invoice [ ]/entry [ ]7576, the amount packaged and shipped was [ ] pieces greater than what was produced.<sup>70</sup> For invoice [ ]/entry [ ]8376, CBP noticed that the date on the bill of lading that InterGlobal provided did not match the date on the bill of lading that LB Wood provided.<sup>71</sup> Moreover, in each of the four reviews, CBP was unable to tie LB Wood's production records to its raw material purchase records.<sup>72</sup>

CBP also performed two reviews on documentation from invoice [ ]/entry [ ]5163 and invoice [ ]/entry [ ]1600, which pertained to the production, sale, and exportation of plywood to American Pacific.<sup>73</sup> For invoice [ ]/entry [ ]5163, CBP noted the vessel American Pacific identified on the entry summary and bill of lading, [ ], did not match the vessel LB Wood identified on the bill of lading, [ ].<sup>74</sup> Also, the manufacturing date on the CARB certificate did not match the manufacturing date on the production records.<sup>75</sup> For invoice [ ]/entry [ ]1600, the routing noted on the purchase order listed “[ ]” while the other documentation listed “[ ]”.<sup>76</sup> American Pacific claimed that this was a clerical error. However, CBP noticed that LB Wood's [ ] suppliers [ ] as well.<sup>77</sup> Additionally, the production dates of the plywood's [ ] application and packaging was after the date on the LB Wood invoice and packing list.<sup>78</sup> The manufacturing dates on the CARB certificate also did not match the manufacturing dates on the provided production

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<sup>67</sup> See LB Wood Supplemental RFI at Exhibit SQ1-2.

<sup>68</sup> See LB Wood RFI at Exhibits 1, 5, 7, 12.1, and 12.2; see also LB Wood Supplemental RFI at Exhibits SQ1-1, SQ1-2, SQ1-4, SQ1-5, and SQ1-9; see also InterGlobal RFI at Exhibits 7, 13-14, and 16; see also Letter from InterGlobal, “EAPA Con. Case No. 7321 InterGlobal Forest Questionnaire Response,” dated December 16, 2019 (InterGlobal Supplemental RFI) at Exhibit SQ1-4.

<sup>69</sup> See InterGlobal Supplemental RFI at Exhibit SQ1-4; see also LB Wood Supplemental RFI at Exhibit SQ1-2.

<sup>70</sup> See LB Wood RFI at Exhibit 1; see also LB Wood Supplemental RFI at Exhibit SQ1-2.

<sup>71</sup> See LB Wood RFI at Exhibit 1; see also InterGlobal RFI at Exhibit 16.

<sup>72</sup> See LB Wood RFI at Exhibit 12.1; see also LB Wood Supplemental RFI at Exhibits SQ1-1 and SQ1-2.

<sup>73</sup> See American Pacific RFI at Exhibits 6-7, 10, and 15-19; see also Letter from American Pacific, “EAPA Con. Case No. 7321 – American Pacific Plywood Supplemental Questionnaire Response,” dated December 9, 2019 (American Pacific Supplemental RFI) at Exhibit SQ1-7; see also LB Wood RFI at Exhibits 1, 5, 7, 12.1, and 12.2; see also LB Wood Supplemental RFI at Exhibits SQ1-1, SQ1-2, SQ1-4, SQ1-5, and SQ1-9.

<sup>74</sup> See American Pacific RFI at Exhibits 16 and 17; see also LB Wood RFI at Exhibit 1, page 127.

<sup>75</sup> See LB Wood Supplemental RFI at Exhibits SQ1-1, SQ1-2, and SQ1-7.

<sup>76</sup> See American Pacific RFI at Exhibit 17; see also American Pacific Supplemental RFI at 6.

<sup>77</sup> See LB Wood at Exhibit 12.1.

<sup>78</sup> See LB Wood RFI at Exhibit 1; see also LB Wood Supplemental RFI at Exhibit SQ1-2.

records.<sup>79</sup> Finally, for each of these reviews, CBP was unable to tie LB Wood's production records to its raw material purchase records.<sup>80</sup>

The fact that the number of veneer sheets that LB Wood claimed it purchased did not match or correlate to the number of sheets that they claimed to have used in the production of completed plywood renders these figures unusable for our purposes. Because CBP cannot tie these figures, LB Wood's production claims remain unsubstantiated. Additionally, because CBP cannot be certain of LB Wood's production capabilities, CBP cannot be certain that LB Wood had the capability to produce all of the plywood they claimed was Cambodian-origin. Consequently, the origin of the merchandise that InterGlobal and American Pacific imported from LB Wood cannot be reliably assumed to be Cambodian-origin.

In consideration of LB Wood's extensive connections to a [ ], LB Wood had the means and opportunity to evade AD/CVD duties on plywood. Overall, CBP finds that record evidence—including the magnitude of the AD/CVD duties placed on merchandise from [ ]; the timeline of its establishment; CBP officials' observations of a lack of employees, minimal production, and [ ] plywood at LB Wood's factory without a functional [ ] machine to [ ]; the various discrepancies in record evidence; and the unsubstantiated production quantities—indicates that LB Wood could not have produced all the plywood it claimed to have produced in Cambodia. Consequently, record evidence shows that Cambodian-origin plywood was comingled with Chinese-origin plywood, which was then exported to InterGlobal and American Pacific and entered as [ ] entries that evaded the payment of AD/CVD duties on plywood from China.

Based on the aforementioned analysis of relevant record evidence, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or omissions, InterGlobal and American Pacific entered Chinese-origin plywood transshipped through Cambodia, which was likely comingled with Cambodian-origin plywood, into the United States and failed to pay AD/CVD duties on the merchandise produced in China that was subject to the AD/CVD orders.<sup>81</sup> Because the subject merchandise was comingled and no reliable evidence exists on the record to differentiate between the Cambodian-origin and Chinese-origin plywood, all subject merchandise that InterGlobal and American Pacific entered from LB Wood during the period of investigation is subject to the AD/CVD rates from plywood from China. Because InterGlobal and American Pacific did not declare that the merchandise was subject to the AD/CVD orders upon entry, the requisite cash deposits were not collected on the merchandise.

*Happy Home*

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<sup>79</sup> See LB Wood Supplemental RFI at Exhibits SQ1-1, SQ1-2, and SQ1-7.

<sup>80</sup> See LB Wood RFI at Exhibit 12.1; see also LB Wood Supplemental RFI at Exhibits SQ1-1 and SQ1-2.

<sup>81</sup> EAPA does not have a knowledge requirement for evasion as defined under 19 CFR 165.1, nor is there any requirement that an importer know of the material or false statement. Therefore, CBP does not need to determine any level of culpability, only that evasion occurred with entry.

Like LB Wood, Commerce’s imposition of AD/CVD duties on plywood from China provided Happy Home with an incentive to engage in evasion. Happy Home also had the means to engage in evasion through its facility in the Sihanoukville SEZ, which is near Cambodia’s only deep-water port and has easier access to raw materials shipped from China than businesses located further inland.<sup>82</sup> Correspondingly, Happy Home sourced most of its raw materials, [ ] percent by value, from [ ].<sup>83</sup> [ ], accounting for [ ] percent by value.<sup>84</sup> Thus, Happy Home sourced [ ] of its raw materials from [ ], which were easily able to supply Happy Home with Chinese-origin veneers, cores, or plywood.

| Top Suppliers | Percent of Value | Location | Note |
|---------------|------------------|----------|------|
| [ ]           | [ ]              | [ ]      | [ ]  |
| [ ]           | [ ]              | [ ]      | [ ]  |
| [ ]           | [ ]              | [ ]      | [ ]  |
| [ ]           | [ ]              | [ ]      | [ ]  |

U.S. Global has imported plywood from Happy Home since [ ].<sup>85</sup> During the POI, U.S. Global imported [ ] entries ([ ] percent by value) from Happy Home out of Happy Home’s [ ] total entries into the United States.<sup>86</sup>

CBP’s [ ] for wood products, [ ], visited Happy Home’s factory in the Sihanoukville SEZ on June 6, 2018.<sup>87</sup> [ ] stated that she observed [ ] plywood at Happy Home’s factory.<sup>88</sup> She noted that these woods are temperate woods that do not grow well in Cambodia’s tropical climate.<sup>89</sup> She further stated that Cambodian factories could produce plywood from raw materials composed of these temperate woods; however, the Cambodian factories lacked the sophistication to produce plywood that is even, without veneer overlaps, gaps, and voids.<sup>90</sup> Likewise, she noted that she believed the plywood she observed at Happy Home’s facility in Cambodia was made in China because it was a typical Chinese product made from temperate wood, of Chinese [ ], and did not have veneer overlaps, gaps, and/or voids.<sup>91</sup> She further stated that Happy Home did not possess the sophisticated manufacturing needed to make such plywood.<sup>92</sup>

After the site visit, CBP determined that Happy Home “[

<sup>82</sup> See Happy Home RFI at 5; see also Second Revised U.S. Global Allegation at Exhibits 8-9.

<sup>83</sup> See Happy Home RFI at Exhibits 2 and 11.

<sup>84</sup> *Id.*

<sup>85</sup> See January 6 Memorandum at 2-11.

<sup>86</sup> *Id.*

<sup>87</sup> See September 12 Memorandum at 3; see also September 13 Memorandum at 83 and 91.

<sup>88</sup> See September 12 Memorandum at 3, 6-10, and 13.

<sup>89</sup> *Id.* at 2-3.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 2-3, 6-10, and 13.

<sup>92</sup> *Id.* at 3, 11-12.

].”<sup>93</sup> While the [ ] of Happy Home disagreed with CBP’s determination in this matter, the response also stated that “[

].”<sup>94</sup> This statement clearly indicates that Happy Home purchases Chinese-origin plywood to some extent and comingles it with Cambodian-origin plywood. While the product at issue for Happy Home in this determination was engineered flooring subject to the Multilayered Wood Flooring AD/CVD orders, engineered flooring is a type of plywood that uses the same machinery; features a similar manufacturing process; and, like plywood, is composed of adhered wood veneers.<sup>95</sup> The fact that the Multilayered Wood Flooring and Plywood AD/CVD orders have 67 HTSUS numbers in common further illustrates their commonality.<sup>96</sup> Moreover, in *Kahrs International, Inc. v. United States*, the Court of Appeals for the Federal Circuit found that engineered flooring and plywood are essentially the same product warranting classification as plywood in the HTSUS in spite of each products’ unique features respective to their differing end uses.<sup>97</sup>

Notwithstanding CBP’s findings from the June 2018 site visit, Happy Home contends that it thoroughly documented its production and had the capacity to produce all the plywood it sold to the United States at all times. While Happy Home appears to possess machinery capable of producing some amount of plywood in Cambodia, the record evidence, including the observations of CBP’s [ ] that Happy Home lacked the sophistication to produce plywood of this kind and Happy Home’s statement that it “[ ],” shows that its machinery likely could not produce the entire quantity of plywood that it claimed. Happy Home’s production manager provided calculations of its machinery’s production capacity. Due to the significant incentive for bias, machinery production figures are unreliable when they originate from company personnel estimates and lack substantiating evidence. Happy Home neither substantiated nor documented its claims concerning the production capacity of its machinery.<sup>98</sup> Therefore, CBP does not consider the calculations of its machinery’s production capacity to be reliable.

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<sup>93</sup> See September 13 Memorandum at 83 and 91; see also September 16 Memorandum at 25. CBP’s determination pertained to whether engineered flooring produced by Happy Home should be subject to the Multilayered Wood Flooring AD/CVD orders. See *Multilayered Wood Flooring from the People’s Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012) (Multilayered Wood Flooring AD/CVD orders).

<sup>94</sup> See September 16 Memorandum at 36.

<sup>95</sup> See September 13 Memorandum at 74; see also September 16 Memorandum at 11; see also U.S. Global CF-28 Response at Exhibit 7. The production steps that are outlined for engineered flooring and plywood are similar. The plywood production step chart portrays somewhat more detail than the engineered flooring production step chart with additional steps, e.g. [ ], that would occur in the engineered flooring process as well.

<sup>96</sup> See the AD/CVD orders; see also Multilayered Wood Flooring AD/CVD orders.

<sup>97</sup> See *Kahrs International, Inc. v. United States*, 713 F.3d 640 (Fed. Cir., April 3, 2013), where the Federal Circuit affirmed the CIT’s decision that “Kahrs’ flooring panels are properly classified as ‘plywood’ under heading 4412.” The Federal Circuit further stated that “While Kahrs’ merchandise possesses some unique features related to its intended use as flooring, we disagree with Kahrs that these features are sufficiently significant to transform its identity. Kahrs’ flooring meets all the requirements for “plywood” as we have defined that term, and we see no reason to read additional limitations into the tariff schedule.”

<sup>98</sup> See Happy Home RFI at Exhibit 13; see also Happy Home Supplemental RFI at 5.

Further, Happy Home’s statements and documentation contained numerous inconsistencies that challenge their overall reliability. For example, CBP asked Happy Home if [ ]. In response, Happy Home claimed that “[ ].”<sup>99</sup> However, CBP observed direct payments to [ ] in U.S. Global’s bank statements, totaling [ ] during the period of investigation.<sup>100</sup> The amount paid to [ ] in U.S. Global’s accounts payable totaled [ ].<sup>101</sup> U.S. Global also identified all payments that it made to Happy Home from [ ], to [ ], which totaled [ ].<sup>102</sup> However, the declared value on imported merchandise from [ ], to [ ], was [ ], which was [ ] higher than the paid amount.<sup>103</sup>

In addition, Happy Home provided monthly trial balances and monthly financial reports from [ ] to [ ], and CBP noted certain inconsistencies.<sup>104</sup> Specifically, for the period from [ ] to [ ], CBP noted that the salary payable on the balance sheets totaled [ ] and was [ ] more than the total of the payroll sheets over the same period.<sup>105</sup> CBP was not able to account for this discrepancy.

With reference to entry documentation, U.S. Global provided information on [ ] entries filed with CBP during the period of investigation.<sup>106</sup> However, CBP’s records indicate that U.S. Global imported [ ] entries during the period of investigation.<sup>107</sup> This means that U.S. Global did not provide documentation on [ ] entries in response to CBP’s request. Out of the [ ] entries that U.S. Global provided information on, CBP selected four entries to investigate in greater detail: invoice [ ]/entry [ ]9612, invoice [ ]/entry [ ]2459, invoice [ ]/entry [ ]6467, and invoice [ ]/entry [ ]7529.<sup>108</sup>

Regarding invoice [ ]/entry [ ]9612, the payment information that Happy Home provided did not match the payment information that U.S. Global provided, nor did it tie to the invoice.<sup>109</sup> Happy Home’s monthly production records did not tie to this shipment or to the payment information that Happy Home provided for the invoice.<sup>110</sup> Additionally, the production records were in [ ] and did not identify the manufacturer’s name.<sup>111</sup> Moreover, CBP was

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<sup>99</sup> See Happy Home Supplemental RFI at 3.

<sup>100</sup> See Happy Home RFI at Exhibit 1; see also Letter from U.S. Global, “EAPA Con. Case No. 7321 U.S. Global Forest, Inc. Questionnaire Response,” dated October 30, 2019 (U.S. Global RFI) at Exhibits 12-13.

<sup>101</sup> See U.S. Global RFI at Exhibits 12-13.

<sup>102</sup> *Id.*; see also Letter from U.S. Global, “EAPA Con. Case No. 7321 U.S. Global Forest, Inc. Supplemental Questionnaire Response,” dated December 12, 2019 (U.S. Global Supplemental RFI) at Exhibit SQ1-1.

<sup>103</sup> See U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>104</sup> See Happy Home RFI at Exhibits 4, 6, and 10; see also Happy Home Supplemental RFI at Exhibit SQ1-4.

<sup>105</sup> *Id.*

<sup>106</sup> See U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>107</sup> See January 6 Memorandum at 4-7, 9.

<sup>108</sup> See Happy Home RFI at Exhibit 1; see also U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>109</sup> See Happy Home RFI at Exhibits 1 and 7; see also Happy Home Supplemental RFI at Exhibits SQ1-5, SQ1-6, and SQ1-7; see also U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>110</sup> See Happy Home Supplemental RFI at Exhibit SQ1-3.

<sup>111</sup> *Id.*

unable to tie the production records to the raw material purchase records provided by Happy Home.<sup>112</sup>

Regarding invoice [ ]/entry [ ]2459, the declared quantity on the entry form was [ ] cubic meters lower than the invoice, packing list, and bill of lading amount.<sup>113</sup> Additionally, U.S. Global did not provide payment details for this entry. The total payment that Happy Home provided was [ ], which is [ ] more than the invoice amount and the value declared to CBP at entry.<sup>114</sup> CBP could not tie the payments to the invoice or any other supporting documentation and was unable to tie Happy Home's monthly production records to this shipment.<sup>115</sup> The production records were in [ ] and did not identify the manufacturer name.<sup>116</sup> Because U.S. Global did not provide payment details for this transaction, the payment information that Happy Home provided did not tie to any other documentation. Yet the payment value was more than the invoice amount. Because of the lack of record evidence, CBP does not know if the payment pertained to more than one entry or if the merchandise was undervalued at entry. Additionally, CBP was unable to tie the production records to the raw material purchase records provided by Happy Home.<sup>117</sup>

Regarding invoice [ ]/entry [ ]6467, U.S. Global did not provide payment details for this entry.<sup>118</sup> The total payment amount that [ ] provided was [ ], which is [ ] more than the invoice amount and declared value.<sup>119</sup> Therefore, CBP could not tie the payment to the provided invoice nor to any other supporting documentation. CBP was also unable to tie the monthly production records to this shipment.<sup>120</sup> In addition, the production records were in [ ] and did not identify the manufacturer's name.<sup>121</sup> Moreover, CBP was unable to tie the production records to the raw material purchase records provided by Happy Home.<sup>122</sup>

Regarding invoice [ ]/entry [ ]7529, neither U.S. Global nor Happy Home provided payment records for this shipment.<sup>123</sup> The invoice total of [ ] was [ ] more than the total of the purchase orders.<sup>124</sup> Both the quantity and value related to purchase order [ ] increased, but no explanation for the increase was provided.<sup>125</sup> CBP was unable to tie the

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<sup>112</sup> *Id.*; see also Happy Home RFI at Exhibit 11.

<sup>113</sup> See Happy Home RFI at Exhibit 1; see also U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>114</sup> See Happy Home RFI at Exhibit 7; see also Happy Home Supplemental RFI at Exhibits SQ1-5 and SQ1-6.

<sup>115</sup> See Happy Home Supplemental RFI at Exhibit SQ1-3.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*; see also Happy Home RFI at Exhibit 11.

<sup>118</sup> See Happy Home RFI at Exhibit 1; see also U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>119</sup> See Happy Home RFI at Exhibit 7; see also Happy Home Supplemental RFI at Exhibits SQ1-5 and SQ1-6.

<sup>120</sup> See Happy Home Supplemental RFI at Exhibit SQ1-3.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*; see also Happy Home RFI at Exhibit 11.

<sup>123</sup> See Happy Home RFI at Exhibit 1; see also U.S. Global RFI at Exhibit 3; see also U.S. Global Supplemental RFI at Exhibit SQ1-8.

<sup>124</sup> *Id.*

<sup>125</sup> See U.S. Global RFI at Exhibit 1.

monthly production records to this shipment.<sup>126</sup> In addition, the production records were in [ ] and did not identify the manufacturer's name.<sup>127</sup> Moreover, CBP was unable to tie the production records to the raw material purchase records provided by Happy Home.<sup>128</sup>

Happy Home claimed that it produced plywood from individual veneers.<sup>129</sup> However, other evidence on the record indicates that it also produced plywood from [ ] imported from [ ] as well.<sup>130</sup> Additionally, contracts translated from [ ] indicate that Happy Home purchased “[ ]” from a [ ] supplier named [ ].<sup>131</sup> Though the contract indicates “[ ],” several other documents associated with these raw material purchases, such as the [ ] indicate that Happy Home imported “[ ]” into Cambodia from [ ].<sup>132</sup> Furthermore, apart from the translation of the contract's [ ], there is no indication that the “[ ]” was [ ]. If the [ ] are taken at face value, Happy Home imported completed [ ] plywood that it could comingle with any Cambodian-origin plywood.

Finally, Happy Home exported [ ] plywood to the United States in 2016 and 2017 than Cambodia [ ].<sup>133</sup> Because Happy Home's exports of Cambodian-origin plywood substantially [ ] Cambodia's plywood production, the amount in [ ] of Cambodia's production indicates that it was [ ]. Bearing in mind Happy Home's extensive connections to [ ] and other record evidence indicating comingling, it is reasonable to conclude that this data indicates the comingling of [ ] plywood.

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<sup>126</sup> See Happy Home Supplemental RFI at Exhibit SQ1-3.

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*; see also Happy Home RFI at Exhibit 11.

<sup>129</sup> See Happy Home RFI at 2-3, 5; see also Happy Home Supplemental RFI at 1.

<sup>130</sup> See September 13 Memorandum at 83 and 91; see also September 16 Memorandum at 25 and 29-30. The documentation attached to these memoranda indicates that Happy Home imported [ ] from [ ].

<sup>131</sup> See Happy Home RFI at Exhibit 11.

<sup>132</sup> *Id.* at Exhibit 11, pages 157, 159-161, 710, 712-714, 945, 947-949, 1266, and 1268-1270.

<sup>133</sup> See September 6 Memorandum at 2-11; see also CBP Memorandum, “Adding Information to the Administrative Record of EAPA Cons. Case 7321,” dated January 9, 2020 (January 9 Memorandum) at 51, 236, 239, and 241. The Forestry Yearbook defines plywood as HTS 4412.31, 4412.33, 4412.34, 4412.39, 4412.94, 4412.99. HTS 4412.32 is mentioned in the scope of the AD/CVD orders; however, 4412.33 superseded the 4412.32 classification. Therefore, 4412.32 is a valid HTS plywood number to use also for the purposes of our comparison.

|      | <b>Cambodia’s Total Plywood Production</b> | <b>Happy Home’s Total Plywood Exports</b> <sup>134</sup> |
|------|--|--|
| 2016 | 27,000 m <sup>3</sup>                      | [ ] m <sup>3</sup>                                       |
| 2017 | 27,000 m <sup>3</sup>                      | [ ] m <sup>3</sup>                                       |
| 2018 | Not available                              | [ ] m <sup>3</sup>                                       |

With reference to the Cambodian figures, the Importers and Manufacturers argue that the figures are unreliable, not contemporaneous, and therefore, should be dismissed.<sup>135</sup> CBP notes that the Forestry Yearbook is a publication of the Food and Agriculture Organization of the United Nations (FAO) and obtains most of its information from government replies to its questionnaires.<sup>136</sup> Whether some of its figures are identical to Chinese export statistics or United States’ import statistics does not necessarily indicate unreliability but rather another data source. Because the FAO’s Forestry Yearbook sources its production figures directly from the Cambodian government, and the Cambodian government possesses the expertise and geographic proximity to most efficiently collect Cambodian plywood production figures, the figures are authoritative and reliable for our investigation’s purposes. Further, data from other United Nations publications, such as those issued by the International Labor Organization, have been considered reliable and have been used in other AD/CVD trade remedy cases.<sup>137</sup>

CBP also notes the 2016 and 2017 Forestry Yearbook figures constitute the most recently available data pertaining to Cambodian plywood production. The 2016-2017 period under consideration ends only six months prior to the beginning of this case’s period of investigation. Additionally, the same HTS numbers are used to compare 2016 and 2017 Cambodian plywood figures to 2016 and 2017 Happy Home plywood export figures; therefore, the comparison provides both a fair and meaningful approach.

In conclusion, the fact that the number of veneer sheets that Happy Home claimed it purchased did not tie to the number of sheets that they claimed to have used in the production of completed plywood renders these figures unusable for our purposes. Because CBP cannot tie these figures, Happy Home’s production claims remain unsubstantiated. Additionally, because we cannot be certain of Happy Home’s production capabilities, CBP cannot be certain it had the capability to produce all of the plywood it claimed was Cambodian-origin. Consequently, the origin of the merchandise that U.S. Global imported from Happy Home cannot be reliably assumed to be Cambodian-origin. In consideration of Happy Home’s lack of sophisticated manufacturing processes as observed during the June 2018 site visit; Happy Home’s extensive connections to [ ]; Happy Home’s statement that it has “[ ]”; the fact that Happy Home imported “[ ]”;

<sup>134</sup> Using CBP entry data, CBP only summed Happy Home’s plywood imports that were classified under the same HTS numbers that the Forestry Yearbook uses to classify plywood. In 2016, Happy Home reported some of these entries under [ ].

<sup>135</sup> See Written Arguments at 5 and 11.

<sup>136</sup> See January 9 Memorandum at 43.

<sup>137</sup> See e.g. *Alloy and Certain Carbon Steel Threaded Rod from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 8821 (February 18, 2020) and accompanying issues and decision memorandum at 22; see also *Certain Hardwood Plywood Products from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017) and accompanying decision memorandum at 36.



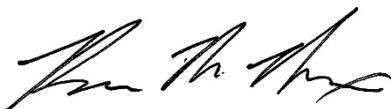
]” from [ ] from [ ]; the [ ] missing entries from U.S. Global; unsubstantiated payments, unsubstantiated production, and various other discrepancies in documentation; and the fact that Happy Home exported [ ] plywood than Cambodia produced in 2016 and 2017, CBP finds that record evidence indicates that Happy Home could not have produced all the merchandise it claimed to have produced in Cambodia. Consequently, record evidence shows that some portion of the “Cambodian-origin” plywood was comingled with Chinese-origin plywood and that these co-mingled goods were then exported to U.S. Global and entered as [ ] entries that evaded the payment of AD/CVD duties on plywood from China.

Based on the aforementioned analysis of relevant evidence, CBP determines that substantial evidence exists demonstrating that, by means of material false statements or omissions, U.S. Global entered Chinese-origin plywood transshipped through Cambodia, which was likely comingled with Cambodian-origin plywood, into the United States and failed to pay AD/CVD duties on the merchandise produced in China that was subject to the AD/CVD orders. Because the subject merchandise was comingled and no reliable evidence exists on the record to differentiate between Cambodian-origin and Chinese-origin plywood, all subject merchandise that U.S. Global entered from Happy Home during the period of investigation is subject to the AD/CVD rates from plywood from China. Because U.S. Global did not declare that the merchandise was subject to the AD/CVD orders upon entry, the requisite cash deposits were not collected on the merchandise.

#### **Actions Taken Pursuant to the Affirmative Determination as to Evasion**

In light of CBP’s determination that substantial evidence demonstrates that InterGlobal, American Pacific, and U.S. Global entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will continue to suspend or extend liquidation, as applicable, until instructed to liquidate the entries subject to this investigation. For future entries of plywood from Cambodia involving InterGlobal, American Pacific, or U.S. Global, CBP will continue to require live entry, where the respective importer must post the applicable cash deposits prior to the release of merchandise into U.S. commerce. Finally, CBP will continue to evaluate InterGlobal’s, American Pacific’s, or U.S. Global’s continuous bonds in accordance with CBP’s policies, and will continue to require single transaction bonds as appropriate. None of the above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,



Brian M. Hoxie  
Director, Enforcement Operations Division  
Trade Remedy & Law Enforcement Directorate  
CBP Office of Trade