



June 7, 2022

PUBLIC VERSION

EAPA Case Number 7618

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Re: Notice of Determination as to Evasion

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

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) Case Number 7618, U.S. Customs and Border Protection (CBP) has determined that there is substantial evidence that CNC Associates N.Y., Inc., doing business as (Dba) CNC Cabinetry (“CNC” or the Importer)¹ entered merchandise covered by antidumping (AD) and countervailing (CVD) duty orders A-570-106 and C-570-107, respectively, into the customs territory of the United States through

¹ See “Wooden Cabinets and Vanities and Components Thereof from the People’s Republic of China: Request for an Investigation under the Enforce and Protect Act of CNC Associates Inc. for Transshipment through Indonesia,” dated March 15, 2021 (the Allegation). See also “Supplemental Information in Support of Request for an EAPA Investigation of CNC Associates Inc. for Transshipment through Indonesia” (Supplemental Allegation), dated May 10, 2021. The Importer president and/or principal is Nathan Indig, and he is also the principal executive officer of [name] located at the same address as the Importer. See CBP Memorandum to the File, dated August 31, 2021, at Attachment 2, “Re: Notice of Initiation of Investigation and Interim Measures - EAPA Case 7583,” dated May 5, 2021.

evasion.² Substantial evidence demonstrates that the Importer entered wooden cabinets and vanities and components thereof (“WCV”) from the People’s Republic of China (China) into the United States and by transshipping the Chinese-origin WCVs through Indonesia and declared that PT Aiwood Smart Home (Aiwood or Supplier 1) and PT Sunwell Manufacturing Indonesia (Sunwell or Supplier 2) are the manufacturers. As a result, no AD/CVD, cash deposit, or other security were collected on the merchandise upon entry.

Background

On March 15, 2021, American Kitchen Cabinets Alliance (“Alleger”), a domestic producer of WCV, filed an EAPA allegation through counsel claiming that the Importer evaded the AD/CVD Orders on WCV from China.³ On May 12, 2021, CBP acknowledged receipt of the properly filed Allegation against the Importer.⁴ TRLED found the information provided in the Allegation and Supplemental Allegation⁵ reasonably suggested that the Importer entered covered merchandise into the customs territory of the United States through evasion. Subsequently, on June 3, 2021, TRLED initiated an investigation against the Importer, under EAPA Case Number 7618, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.⁶

On September 9, 2021, after evaluating the information on the record, including information obtained in response to Customs Form-28 (CF-28) questionnaires⁷, from conducting cargo exams,⁸ from internet research, and from the Allegation and Supplemental Allegation, CBP issued a “Notice of Initiation of Investigation and Interim Measures – EAPA Case 7618” (NOI).⁹ The NOI informed the Importer and the Alleger of the initiation of the investigation and of CBP’s decision to impose interim measures for the Importer based on a reasonable suspicion of evasion.¹⁰ In the NOI, CBP discussed the fact that Supplier 1 and Supplier 2 are located in the same industrial manufacturing complex as a third company, PT Mangrove Industry Park Indonesia (PT MIPI) and that the companies have financial ties.¹¹ Specifically, [name] (Chinese national) owned 20% of PT MIPI and owned 29% shares of Supplier 1.¹² In addition, MIPI is link to [name] (Indonesian national) who owned 70% of MIPI and 1% of

² See Allegation at Exhibit 1 and Exhibit 2, citing Wooden Cabinets and Vanities and Components Thereof from the People’s Republic of China: Antidumping Duty Order, 85 FR 22126 (Dep’t Commerce, Apr. 21, 2020) (*AD Order*) and Wooden Cabinets and Vanities and Components Thereof from the People’s Republic of China: Countervailing Duty Order, 85 FR 22134 (Dep’t Commerce Apr. 21, 2020) (*CVD Order*) (collectively, the Orders). Those notices indicate the suspension of liquidation for CVD occurred for entries on or after August 12, 2019, and the suspension of liquidation for AD occurred for entries on or after October 9, 2019, the respective publication dates of the affirmative preliminary determinations in the Department of Commerce investigations.

³ See the Allegation.

⁴ See May 12, 2021, email entitled “EAPA Case 7618 Official Receipt – CNC.”

⁵ The Supplemental Allegation provides more information on the Importer’s corporate registration and dba.

⁶ See 19 USC 1517(b)(1) and 19 CFR 165.15; see also CBP Memorandum, “Initiation of Investigation for EAPA Case 7618, Wooden Cabinets and Vanities Components and thereof (WCV),” dated June 3, 2021.

⁷ See Importer CF-28 response to entry number [no.]0968, dated July 15, 2021.

⁸ See CBP Memorandum to the file, dated August 31, 2021.

⁹ See CBP “Notice of Initiation of Investigation and Interim Measures – EAPA Case 7618” (NOI), dated September 9, 2021.

¹⁰ *Id.*; see also 19 USC 1517(e) and 19 CFR 165.24.

¹¹ See the Allegation at Exhibit 6, p. 11 and 12. See also NOI at 3-7.

¹² *Id.*

Supplier 2.¹³ Pursuant to 19 C.F.R. § 165.2, entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from May 12, 2020.¹⁴

In its CF-28 response, the Importer submitted entry summary documents to CBP which included the sale contracts (proforma invoices), purchase order forms, the Importer's internal purchase order number [no.], dated [no.] and showing a received by date of [no.], bank slip, Indonesian certificate of origin which indicated a date of shipment of December 3, 2020, PT MIPI invoice for transportation for the shipment, commercial invoice, itemized commercial invoice, packing list, bill of lading, CBP Form 7501, manufacturing processing flow chart, production records, invoices of major raw materials, manufacturer's affidavit, employees' daily attendance records, photographs of the exterior and interior of the plant and equipment, a registration certificate and a cost sheet. The proforma invoices and the purchase order number [no.], dated September 4, 2020, revealed that the WCV item codes purchased from Supplier 1 are [no.] - carcasses and un-finished front frames, [no.] - complete cabinet and [no.] door set, [no.] door sets and [no.] door sets.¹⁵ This information shows that the Importer was importing the subject components and cabinet parts into the United States, not just cabinets ready for permanent installation. In addition, the example of the proforma invoice information on parts and components for this entry is supported by the [name] trade data discussed more in depth below and in the Analysis section.

On October 22, 2021, CBP issued the request for information (RFI) questionnaires to the Importer, Supplier 1 and Supplier 2.¹⁶ In its RFI response,¹⁷ the Importer stated that the company's founder, Nathan Indig, often traveled to China after 2011 and met with several manufacturers of WCV, developing strong relationships. After the visit, Nathan Indig, through CNC, started [description and name].¹⁸ The Importer maintained that before importing WCV from any manufacturer, the Importer would validate the factory operations and its readiness to satisfy the WCV orders. The Importer stated:

“When we start doing business with a company, we start by visiting them and their factory. We meet their entire team and have discussions on capability and volume. We then share drawings of our products. We then discuss pricing. If their pricing is in line with our current vendors, we then send them sample cabinets. They duplicate the sample cabinet and then send to us for review. After approval of the sample cabinet, we give them a “test” PO for 1 container to review process and quality in a production environment. We generate a PO and send to the vendor with quantity and price. They confirm it and give us a scheduled ship date. We then make a down payment on the order. During this time, we have video calls and emails back and forth to clear up manufacturing or quality issues. [importing process

¹³ *Id.* See also “EAPA Case No. 7618—Sunwell RFI Response,” dated December 3, 2021 (Supplier 2 response).

¹⁴ See 19 CFR 165.2; see also 19 CFR 165.2. Entries covered by the POI include entries up to one year prior to the date CBP officially received the Allegation, which was May 12, 2020.

¹⁵ *Id.* at Exhibits 2, 3.1 and 3.2.

¹⁶ See “EAPA 7618 RFI Questionnaires,” dated October 22, 2021 (Supplier 1 RFI Questionnaires); “EAPA 7618 RFI Questionnaires,” dated October 22, 2021 (Supplier 2 RFI Questionnaires); “EAPA 7618 RFI Questionnaires,” dated October 22, 2021 (Importer RFI Questionnaires).

¹⁷ See “EAPA Case No. 7618—CNC RFI Response,” dated November 19, 2021 (Importer RFI response).

¹⁸ *Id.* at 4.

] After the PO is received and the quality is approved, then more orders are placed with the vendor. Before COVID, we visited the factories every 3-4 months to ensure they are performing and if there are any issues that are lingering, they can be addressed at the time.”¹⁹

“With respect to the suppliers identified in Appendix I, PT. Aiwood Smart Home International (“Aiwood”) was first introduced to CNC by the General Manager [name, experience in prior location

]. CNC also learned that the factory had purchased equipment and put it into their factory building in Indonesia. [names] visited Aiwood in [date] and Aiwood was already running product for CNC. Aiwood shipped their first container to CNC in the following month.²⁰

During that trip to Indonesia, CNC also visited PT. Sunwell Manufacturing Indonesia (“Sunwell”). CNC learned about Sunwell through its General Manager [name and prior position]. As far as CNC is aware, Sunwell is not affiliated with Aiwood; they happen to be in the same industrial park. [name and operation status

]. CNC was unable to make another trip to visit Sunwell because of COVID.”²¹

On November 29, 2021, CBP timely received the Supplier 1 RFI response²² stating that is a private limited company incorporated in [date] and does not have a company website.²³ Supplier 1 said price negotiations with the Importer are normally made through telephone or instant messaging and there is no traditional written record for price negotiation in the normal business of operation.²⁴ The supplier also said that similar to other small businesses, it does not have formal operating procedures or internal controls over production records and retention except warehouse tracking of raw materials and finished products.²⁵ Supplier 1 continued to explain that certain raw materials such [descriptions] are sourced from their affiliates, [name], and [name] for the production of WCV products.²⁶ Supplier 1 further stated that [name and location] and asserted that [name] did not provide any covered merchandise to Supplier 1 during the period of investigation.²⁷

¹⁹ *Id.* at 3, 4 and 6.

²⁰ *Id.* at 3-4

²¹ *Id.* at 4.

²² See “EAPA Case No. 7618—Aiwood RFI Response,” dated November 29, 2021 (Supplier 1 response).

²³ *Id.* at 3.

²⁴ *Id.* at 4.

²⁵ *Id.* at 6.

²⁶ *Id.* at 5 and 9. See also Exhibit 24.

²⁷ *Id.* at 11.

On December 3, 2021, CBP timely received the Supplier 2 RFI response revealing a similar company setup as Supplier 1, they are a private limited company incorporated on [date] and does not have a company website.²⁸ The price negotiations with the Importer is normally made through telephone or instant messaging and there is no traditional written record for price negotiation in the normal business of operation.²⁹ The supplier also said that similar to other small businesses, it does not have formal operating procedures or internal controls over production records and retention except warehouse tracking of raw materials and finished products.³⁰ Supplier 2 continued to explain that certain raw materials such [descriptions] are sourced from their [name] affiliates, [name], and [name] for the production of WCVs products.³¹ Supplier 2 further stated that [name and description from location] and asserted that [name] did not provide any covered merchandise to Supplier 2 during the period of investigation.³²

On December 20, 2021, CBP timely received voluntary new factual information (NFI) from the Importer.³³ The Importer maintains that Supplier 1 had more than adequate capacity to fulfill the orders based on the summary sheet of the production records, which includes warehouse inventories, attendance sheets and payroll sheets as well as the purchase order records.³⁴ Further, the Importer reiterated that it had limited business dealings with Supplier 2, since only one purchase order for WCV was placed during the POI.³⁵

The Importer explained in its NFI submission that there is no doubt that Supplier 1 and Supplier 2 have real production; however, the below statement indicates that not all raw materials are accounted for, which aligns with the [name] trade data (*see below*) that showed imports of subject cabinet components and parts from China.

“During the POI, Aiwood’s monthly production output and monthly sales are not the same because Aiwood always had inventories from previous month(s). Please refer to Exhibit 5 for a reconciliation of beginning and ending inventory and production output and sales quantity. Although Aiwood does not keep a movement schedule, it can provide the monthly beginning and ending inventories by counting production orders finished before the end of a month but shipped in the subsequent month(s). For instance, Aiwood’s June 2020 beginning inventory is [no] containers because there are [no] containers (of multiple production orders) produced and inventoried before June 1, 2020, but shipped after June 1, 2020. This information supplements Aiwood’s assertions that it produced adequate WCVs throughout the POI to ship to CNC and other customers.”³⁶

²⁸ See Supplier 2 response at 3.

²⁹ *Id.* at 4 and 5.

³⁰ *Id.* at 6.

³¹ *Id.* at 5, 9 and 10. *See also* Exhibit 23.

³² *Id.* at 12.

³³ See “EAPA Case No. 7618 – CNC Voluntary Submission of Factual Information,” dated December 20, 2021, (Importer NFI).

³⁴ See Importer NFI at 2.

³⁵ *Id.* at 1.

³⁶ See Importer NFI at 3.

“Both Aiwood and Sunwell have responded to TRLED’s RFI that they are unable to trace raw materials used to produce a specific sale to the U.S. back to specific raw material purchases. See Aiwood – RFI Response at 3-4; Sunwell – RFI Response at 4. The companies did not purchase raw materials specific to any purchase orders, but instead, they maintained a regular level of inventory of common raw materials that can be used in the production of any cabinets. See *id.* This should be a matter of common sense for most producing industries and certainly is true for the WCV Industry. CNC submits additional factual information to further demonstrate that it is entirely normal that a cabinets manufacturer cannot trace individual raw materials purchases to productions and sales.”³⁷

On January 13, 2022, TRLED notified parties to the investigation of its decision to consolidate four (4) official [name] trade data (trade data) exhibits into one (1) attachment for [names] to simplify the administrative record.³⁸ Because the [no.] are co-located and share financial ties, the data show imports and exports for all [no.] entities. The trade data from all [no.] indicate that they had [action] during the POI as indicated below in Table 1. Specifically, the trade data show that [name] had imports of [descriptions] from its [relationship, description and location] from [dates]; that [name] had imports of [descriptions] from its [relationship, description and location] from [dates]; and that [name] had imports of [descriptions] from [source and location] from [dates].³⁹

Table 1

names, numbers, weights, values, percentages, locations and actions

On March 10, 2022, CBP extended the determination as to evasion to May 30, 2022. On March 11, 2022, CBP extended the written arguments deadline until March 24. On March 24, 2022, both the Allegor and Importer timely submitted written arguments.

In its written arguments, the Allegor states that, as the Allegation showed, it retained a foreign market researcher (FMR) to visit the Suppliers, which revealed that: [name and action at location description], but the FMR observed [describing the products]. [action

³⁷ *Id.* at 6.

³⁸ See TRLED Memorandum to the File, dated January 13, 2022 (TRLED Jan. memo.) replacing TRLED Memorandum to the File, dated December 10, 2021 (TRLED Dec. memo). This trade data came from the [name] and shows imports from [name] to [names] and their subsequent exports to the United States.

³⁹ *Id.*

from location

]. The FMR [describing action

].

The FMR was [action on name

]. [names and no action of product during date range

]. [

] The FMR [observation at location

].” The Allegor also reiterated that the local Indonesian newspapers reported illegal transshipment activities are occurring at these facilities.⁴⁰

The Importer argued that the voluminous information and documents submitted in its RFI responses to TRLED fully substantiated the production capability of each of the suppliers; therefore, TRLED should make a negative determination.⁴¹

On April 1, 2022, TRLED notified parties to the investigation of its action of placing the memorandum to the file containing DHS official site visits report for Supplier 1, Supplier 2, and PT MIPI on the administrative record.⁴² During the site visit, on October 21, 2021, DHS officials observed production of WCV from raw materials.

On April 6, 2022, the Allegor submitted timely rebuttal comments on the TRLED April memo.⁴³ On April 8, 2022, both the Allegor and Importer submitted timely rebuttal comments to the written arguments.⁴⁴ On April 11, 2022, the Importer submitted timely rebuttal comments on the TRLED April memo.⁴⁵

Analysis

Under 19 USC 1517(c)(1)(A), to reach a determination as to evasion, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.” 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 merchandise.”⁴⁶ As

⁴⁰ See the Allegation at Exhibits 8-12. See also, TRLED Memorandum to the File, dated August 31, 2021 (TRLED Aug. memo) at attachment 1.

⁴¹ See the Importer Written Arguments at 1.

⁴² See TRLED Memorandum to the File, dated April 1, 2022 (TRLED Apr. memo). See also TRLED email, “EAPA 7618-CBP Memo to the File,” dated April 1, 2022, notifying parties to the investigation of the ability to provide rebuttal information no later than 10 calendar days pursuant to 19 CFR § 165.23(c)(1) and (2).

⁴³ See “Wooden Cabinets and Vanities and Components Thereof from the People’s Republic of China: Rebuttal Factual Information to New Factual Information Placed on the Record,” dated April 2, 2022.

⁴⁴ See “Rebuttal Comments on behalf of American Kitchen Cabinet Alliance,” dated April 8, 2022. See also “EAPA Case No. 7618 – CNC Rebuttal to Written Argument, dated April 8, 2022 (Importer Rebuttal Arguments).

⁴⁵ See “EAPA Case No. 7618 – CNC Rebuttal to CBP New Factual Information,” dated April 11, 2022.

⁴⁶ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

discussed below, the record of this investigation, supported by substantial evidence, indicates that covered merchandise entered into the customs territory of the United States through evasion.

The trade data in Table 1 show the total imports of manufactured WCV from [no. from location to location] and the exports of manufactured WCV from [no. to destination]. The total of imports in this table closely [no. of products] exported by all [no. to destination] under the same harmonized tariff schedule (HTS) subheading, 9403.⁴⁷ Trade data from [name] indicates that [name] imported WCV on a monthly basis from [name] during the POI.⁴⁸ All of [names] imports from [name] were made under Indonesian HTS code [no.].⁴⁹ This HTS code covers wooden furniture parts and does not cover raw materials such as the wooden boards or plywood that are used to produce cabinets, as claimed by the Importer and Suppliers in their RFI responses.⁵⁰

Furthermore, raw materials such as plywood and MDF are properly classified under subheading code 4412, whereas HS code 9403 is for manufactured articles [description]. Additionally, the [name] trade data confirmed that [names] source products from [names]

[], all known producers of WCV in China and not producers of raw materials.⁵¹ In addition, these companies are known exporter/producers of WCV, as named in the Department of Commerce (DOC) investigation and assigned their own separate AD/CVD rates because DOC determined that these companies produced and/or exported subject merchandise to the United States.⁵² The descriptions of the imported goods leave no room for doubt that these [no.] suppliers were importing [description and name] rather than raw materials, such as wooden boards or plywood.⁵³

The WCV imported from Indonesia during the POI by the Importer and entered into the United States meet the definition of covered merchandise under the Orders.⁵⁴

“Subject merchandise includes the following wooden component parts of cabinets and vanities: (1) wooden cabinet and vanity frames (2) wooden cabinet and vanity boxes (which typically include a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves), (3) wooden cabinet or vanity doors, (4) wooden cabinet or vanity drawers and drawer components (which typically include sides, backs, bottoms, and faces), (5) back panels and end panels, (6) and desks, shelves, and tables that are attached to or incorporated in the subject merchandise.

⁴⁷ See TRLED Jan. memo. See also, CF-28 Response entry number [no.] 0968, dated July 15, 2021.

⁴⁸ See TRLED Jan. memo.

⁴⁹ See the Alleger RFI response, dated Apr. 8, 2022, at 4 and Exhibit 7. See also TRLED Jan. memo.

⁵⁰ See the Alleger RFI response at 4 and Exhibit 8. See also Importer RFI Response at 26 and 27; Supplier 1 RFI Response at 9 and 11; and Supplier 2 RFI Response at 10 and 12.

⁵¹ See the Alleger RFI response, dated April 8, 2022, at Exhibits 20-24.

⁵² See TRLED Jan. memo. See also Supplier 1 RFI Response at 5 and 9, and Supplier 2 RFI Response at 9-10. See also AD Order.

⁵³ See Alleger RFI response at 4 and Exhibit 7.

⁵⁴ See Importer CF-28 response to entry number [no.] 0968, dated July 15, 2021. See also the Orders.

Subject merchandise also includes wooden cabinets and vanities and in-scope components that have been further processed in a third country, including but not limited to one or more of the following: trimming, cutting, notching, punching, drilling, painting, staining, finishing, assembly, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope product.”⁵⁵

CBP also determined that the WCV imported by the Importer into the United States are covered merchandise based on the CBP 7501 form information for the covered entries and the invoice information provided in the RFIs and the CF-28 response.⁵⁶ Specifically, the imported merchandise consisted of components, which are covered by the scope of the Orders. The [name] trade data demonstrate that the imports of WCV from [names] also are covered by the scope of the Orders because the Indonesian HTS code [no.], covers wooden furniture parts and does not cover raw materials used to produce cabinets, such as wooden boards or plywood, contradicting the Importer and Suppliers RFI responses as well as the Importer NFI.⁵⁷ The trade data also indicate in total that almost the same amount of [description] were imported [names and action].⁵⁸ This suggests that the majority of products imported [name and no.] was exported to the [region].

Although the Importer denies that there is any affiliation between Supplier 1, Supplier 2, and PT MIPI,⁵⁹ the companies are located near each other in the same industrial park and clearly have financial stakes in one another. The Allegor pointed out in the Allegation that a Chinese national [name] owns 20% of PT MIPI⁶⁰ and the same individual [name], also owns 29% of shares of Supplier 1.⁶¹ Additionally, an Indonesian national, [name], owns 70% of PT MIPI and 1% of Supplier 2. PT MIPI and Supplier 2 are also registered at the exact same address.⁶² There is a clear affiliation through shareholding between Supplier 1, Supplier 2 and PT MIPI and the three companies clearly have a financial interest in each other. Furthermore, Supplier 1 is affiliated with [name] and [name]⁶³ and Supplier 2 is affiliated with [name] and [name and location],⁶⁴ known manufacturers of covered merchandise. Moreover, there are numerous articles published in the Indonesian press and placed on this administrative record indicating that PT MIPI is involved in transshipping covered merchandise from China through Indonesia to the United States.⁶⁵

⁵⁵ See the Orders.

⁵⁶ See Importer RFI Response at 27; Supplier 1 RFI Response at Exhibit 3; and Supplier 2 RFI Response at Exhibit 3. See also Importer CF-28 response to entry number [no.]0968, dated July 15, 2021. CBP is not required to initiate a covered merchandise referral to the Department of Commerce. Rather, CBP will initiate a referral only if the Agency is unable to determine whether the imported merchandise properly falls within the scope of the relevant AD/CVD order. See 19 CFR 165.15(a); see also 19 CFR 165.16.

⁵⁷ See TRLED Jan. memo; the Allegor RFI response, dated April 8, 2022, at Exhibit 8. See also, The Importer NFI.

⁵⁸ *Id.*

⁵⁹ See the Importer Written Arguments, dated March 24, 2022, at 21.

⁶⁰ See the Allegation at Exhibit 6, p. 11.

⁶¹ See the Allegor “Rebuttal Comment”, dated April 8, 2022. See also, EAPA Allegation at Exhibit 6, p. 11 and 12.

⁶² See the Allegation at Exhibit 6, p. 11.

⁶³ See Supplier 1 RFI response at 5 and 9. See also, Exhibit 24.

⁶⁴ See Supplier 2 RFI response at 9 and 10.

⁶⁵ See the Allegation at Exhibits 8-12. See also, See TRLED Memorandum to the File, dated August 31, 2021 (TRLED Aug. memo).

In this investigation, Supplier 1 and Supplier 2 have presented documentation in their RFI responses that they manufacture at least some WCV from raw materials, and DHS officials observed such manufacturing taking place in October 2021, when they visited the industrial complex where all three companies are located. Nevertheless, Supplier 1 and Supplier 2 claim they cannot track raw material purchases to finished goods sold.⁶⁶ Therefore, Supplier 1 and Supplier 2 have not presented evidence that is sufficient to demonstrate that they were able to manufacture *all* the products they sold to the Importer, which were entered into the United States.

However, the trade data from the [name] also show that [names] imported [no.] of kilograms of [products] from their [relations and name]. In addition, these [observation] into the United States. The affiliation between these companies suggest that they have a financial interest to act in concert with each other to ship goods to the United States. Finally, the Allegation also showed that the companies [action] when the FMR visited the factory location and spoke with company officials.

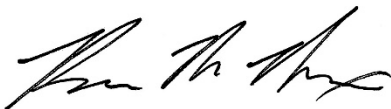
Therefore, there is substantial evidence on the record which demonstrates the WCV imported [name] are, at the very least, being comingled with any Indonesian WCV being made from raw materials. Since the information on the administrative record is insufficient to determine which entries filed with CBP contain the subject merchandise, it is reasonable to conclude, based on the [name] trade data, that the majority of imports contained Chinese-origin WCV. CBP determines that the WCV imported by the Importer and exported to the United States from Supplier 1 and Supplier 2 are, in fact, transshipped merchandise from China and entered the customs territory of the United States through evasion.

⁶⁶ See Supplier 1 RFI Response at 15; and Supplier 2 RFI Response at 15 and 17.

Actions Taken Pursuant to the Affirmative Determination as to Evasion

In light of CBP's determination that the Importer entered 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 suspend or continue to suspend the liquidation for the entries imported by the Importer and subject to EAPA Case 7618, until instructed to liquidate. For those entries previously extended and for all future entries subject to EAPA Case 7618, CBP will rate adjust and change those entries to type 03, using the "all others" AD/CVD rates for China unless the Department of Commerce determines a separate rate applies to that entry, and will continue suspension until instructed to liquidate. CBP will also evaluate the Importer's continuous bonds in accordance with CBP's policies and may require single transaction bonds, as appropriate. None of the above actions preclude CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian M. Hoxie". The signature is fluid and cursive, with the first name being the most prominent.

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