

July 8, 2022

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E. Street, SW
Washington, DC 20436

Re: *Economic Impact of Section 232 and 301 Tariffs on U.S. Industries (Inv. 332-591):* Prehearing Statement

Dear Ms. Barton:

On behalf of the Coalition for Fair Trade in Hardwood Plywood and its individual members (the “Coalition”), we respectfully submit this statement in advance of the hearing scheduled to be held by the U.S. International Trade Commission on July 21, 2022 regarding the economic impact of the Section 232 and 301 tariffs on U.S. industries.¹ This prehearing statement is timely filed in accordance with the July 8, 2022 deadline for such statements.²

The Coalition is an *ad hoc* association of four U.S. manufacturers of plywood products: Columbia Forest Products, Commonwealth Plywood Inc., States Industries Inc., and Timber Products Company. These Coalition member companies proudly manufacture plywood and veneers for plywood in more than a dozen facilities across the United States, including in Arkansas, Mississippi, New York, North Carolina, Oregon, Virginia, and West Virginia.

Pursuant to the third round of Section 301 tariffs, the U.S. government imposed additional, 25 percent tariffs in late 2018 on Chinese imports under tariff lines associated with plywood

¹ *Economic Impact of Section 232 and 301 Tariffs on U.S. Industries*, 87 Fed. Reg. 28,035 (notice of inv. and scheduling of a public hearing).

² *Id.*

products that directly compete with U.S. manufactured plywood.³ These tariffs have been of significant benefit to Coalition members and other U.S. plywood producers, who have long suffered from unfair and anticompetitive Chinese trade practices, including dumping and subsidization. Chinese producers and exporters of hardwood plywood benefit from numerous unfair trade practices such as those described through the United States Trade Representative's Section 301 investigation and have used these artificial advantages to inflict serious harm on the U.S. industry with which they compete. Indeed, the Chinese government has a number of plans and policies aimed at supporting the development of China's wood manufacturing sector and encouraging the export of wood products, including:

- In five-year plans issued by the Central Committee of the Communist Party of China, the Chinese government ("GOC") has explicitly stated its objective to accelerate and actively develop the forestry industry.⁴ The wood and wood products industry is considered to be a fundamental industry in China.⁵
- GOC policy objectives for the forestry industry were further developed in the *Resolution on Accelerating the Development of Forestry*,⁶ which identifies forestry as an industry that "must be placed in a more conspicuous position," "receive top priority," and be "accorded a fundamental position."⁷ The Resolution sets the goal of increasing wood product supply⁸ and calls for: (1) an increase in direct government investment in the industry; (2) the provision of financial support; and (3) the reduction or elimination of taxes/fees on the industry.⁹ In addition, the Resolution requires that local governments support projects to

³ Relevant tariff lines are identified in the attachment to this submission.

⁴ See Tenth Five-Year Plan for National Economic and Social Development, Government of the People's Republic of China, attached as **Exhibit 1**; see also Twelfth Five-Year Plan for Economic and Social Development, Government of the People's Republic of China, attached as **Exhibit 2**.

⁵ Terence P. Stewart, Esq., *China's Support Program for Selected Industries: Wood and Wood Products*, Stewart and Stewart (June 2007) at 31, available at <https://www.uscc.gov/sites/default/files/Research/TLAG%20Report%20-%20China%27s%20Support%20Program%20for%20Wood%20and%20Wood%20Products.pdf>.

⁶ See Resolution by the Chinese Communist Party Central Committee and the State Council on Accelerating the Development of Forestry (June 25, 2003), attached as **Exhibit 3**.

⁷ *Id.* at para. 4.

⁸ *Id.* at para. 3.

⁹ See generally *id.*

develop fast-growth/high-yield plantations. Governments at each level are directed to provide long-term, low-interest loans and subsidize interest payments.¹⁰ The Resolution also calls for efforts to reduce tax burdens and administrative fees on the industry.¹¹

- The GOC has issued “decisions” that call for all levels of government to provide benefits to encouraged projects, which include projects in the forestry industry – specifically tree planting and seedling, fast-growth/high-yield plantations, industrial material forests, and construction of new and economic forest projects.¹²
- The GOC has issued “catalogues” that list industries to be treated favorably with respect to government investment decisions and projects, which specifically cover the forestry industries, including the planting and development of industrial raw materials and planting of forest trees, as well as the wood processing industries.¹³
- The GOC’s *Catalogue for the Guidance of Industrial Structure Adjustment*¹⁴ identifies the forestry and wood panel industries as “encouraged” industries.¹⁵

As a result of these unfair and illegal trade practices that are encouraged and supported by these policies, Chinese imports of plywood have had a devastating effect on the U.S. industry. In fact, the Coalition filed antidumping (“AD”) and countervailing duty (“CVD”) cases against Chinese hardwood plywood imports in late 2016. Prior to the imposition of the AD/CVD orders, there had been a significant increase in imports from China that directly contributed to the U.S. industry losing market share, reducing production and employment, and facing a deteriorating

¹⁰ *Id.* at para. 18.

¹¹ *Id.* at para. 20.

¹² See *Temporary Provisions on Promoting Industrial Structure Adjustment*, AsianLII (2005), attached as **Exhibit 4**; *Directory Catalogue on Readjustment of Industrial Structure (Version 2005)*, China Trade in Services (Dec. 6, 2007), attached as **Exhibit 5**; *Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)*, Ministry of Commerce People’s Republic of China (Feb. 21, 2012), attached as **Exhibit 6**.

¹³ See *Directory Catalogue on Readjustment of Industrial Structure (Version 2005)*, China Trade in Services (Dec. 6, 2007), attached as **Exhibit 5**; *Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)*, Ministry of Commerce People’s Republic of China (Feb. 21, 2012), attached as **Exhibit 6**.

¹⁴ World Trade Organization, *Subsidies – Replies to the Questions Posed by Turkey Regarding the New and Full Notification of China*, G/SCM/Q2/CHN/29 (Sept. 14, 2007) at 1, available at <https://docs.wto.org/>.

¹⁵ See *GOC’s Catalogue for the Guidance of Industrial Structure Adjustment (2011 Version)*, attached as **Exhibit 7**.

financial performance.¹⁶ While the trade remedy orders have played a critical role in leveling the playing field for U.S. plywood producers, the Section 301 tariffs have also played a crucial role in conjunction with the AD/CVD orders. Critically, because the Section 301 tariffs apply to a wider range of products than what is covered by the trade remedy orders, they are playing an important role in addressing circumvention of the trade remedy orders and allowing the domestic industry to receive the full benefit of this relief.

Chinese producers' attempts to circumvent and evade the trade remedy orders on hardwood plywood occurred almost immediately after those cases were filed. For example, while the trade remedy investigations were still ongoing, Chinese producers began offering new plywood products that used softwood veneers, offering them for indoor and decorative uses as a direct alternative to the hardwood plywood covered by the investigations.¹⁷ Although the domestic industry filed circumvention cases against these products, the U.S. Department of Commerce ("Commerce") and the courts ultimately failed to apply the AD/CVD duties to these products. The Section 301 duties cover this softwood-faced decorative plywood, and thus help combat the continuous and changing ways in which Chinese producers and exporters have sought to avoid the AD/CVD duties while still competing directly with domestically produced hardwood plywood.

U.S. Customs and Border Protection ("Customs") has also found that U.S. importers have been evading the trade remedy orders on hardwood plywood from China. Notably, Customs has issued determinations finding that various importers have entered covered hardwood plywood into

¹⁶ *Hardwood Plywood from China*, Inv. Nos. 701-TA-565 and 731-TA-1341, USITC Pub. 4747 (Dec. 2017) (Final) at 21-28.

¹⁷ While the U.S. Department of Commerce found that these actions did not fit the narrow definition of "later developed merchandise" under 19 U.S.C. § 1677j(d), previously, only plywood with at least one hardwood veneer was sold in the U.S. market for such purposes and Chinese producers began offering these products shortly after and in direct response to the filing of the trade remedy cases.

the United States through evasion.¹⁸ Commerce is also investigating a scheme wherein Chinese wood veneers are assembled in Vietnam in an attempt to circumvent the trade remedy orders.¹⁹ Simply put, Chinese producers will go to great lengths to continue selling unfairly priced hardwood plywood in the United States.

It is also important to note that the AD and CVD margins can vary significantly from year to year, based on calculation methodology and other factors. In the original investigations, Commerce found all Chinese producers to be dumping at margins in excess of 100 percent. However, since that time Commerce has improperly changed its methodology for valuing Chinese production costs, by basing such costs on log costs (which can be highly inaccurate) rather than wood veneer costs. As a result, AD and CVD margins can vary significantly due to the administrative review process. The stability and consistency of the Section 301 margins has provided important and complementary relief to the domestic industry.

As such, the Section 301 duties provide an additional, important layer of discipline that works together with the trade remedy duties to help level the playing field for the domestic industry. They have also directly impacted the quantity of Chinese plywood imported into the United States. In 2018, Chinese imports under tariff lines covering plywood and plywood veneers reached 857,113 cubic meters. Chinese imports under these tariff lines fell by more than fifty

¹⁸ See Letter from Carrie L. Owens, Dir., Enf't Ops. Div., Trade Remedy & Law Enf't Directorate, CBP Off. of Trade, to Oliver W.C. Wong et al., EAPA Consol. Case No. 7252, re: *Notice of Initiation of Investigation and Interim Measures* (Nov. 20, 2018); Letter from Brian M. Hoxie, Director, Enf't Operations Division, Trade Remedy & Law Enf't Directorate, CBP Off. of Trade, to deKieffer & Horgan, PLLC & Wiley Rein LLP, EAPA Case No. 7321, re: *Notice of Determination as to Evasion* (June 29, 2020).

¹⁹ See *Certain Hardwood Plywood Products from the People's Republic of China*, 85 Fed. Reg. 36,530 (Dep't Commerce June 17, 2020) (initiation of anti-circumvention inquires and scope inquiries on antidumping duty and countervailing duty orders; Vietnam assembly).

percent in 2019, the first full year after the Section 301 tariffs were imposed and have remained well below pre-tariff levels ever since.

Additionally, the Section 301 tariffs also helped to prevent Russian wood from entering the U.S. market. Hardwood plywood products made in China are frequently produced using birch wood harvested in Russia. As has been reported to Commerce,²⁰ Russia's economy operated on non-market principles—particularly in the forestry and logging industries—even before its invasion of Ukraine. The Russian government ultimately owns every hectare of Russian forest, which has led to rampant corruption and illegal logging. Illegally cut Russian logs—and their distortive price effects—ultimately find their way to the United States, predominantly through Chinese products. For example, in 2016 the Department of Justice assessed \$13 million in penalties against an American company for importing hardwood plywood flooring manufactured in China using timber illegally logged in Russia. Following Russia's invasion of Ukraine and Russia's retreat from many global economic systems, China continues to incorporate large volumes of Russian birch into hardwood plywood products. The Section 301 tariffs, therefore, have the added benefit of preventing sale of Russian-sourced wood to the United States through China.

Together with the AD and CVD duties, the Section 301 tariffs have helped to invigorate American hardwood plywood and veneered panel manufacturing and have allowed the domestic industry to expand its production, sales, and employment. Without the positive economic impact from the disciplines of the Section 301 tariffs and AD/CVD orders, large quantities of unfairly priced Chinese imports of hardwood plywood would be likely to result in U.S facility closures and

²⁰ See generally Letter from Wiley Rein LLP to Sec'y Commerce, re: *Urea Ammonium Nitrate Solutions from the Russian Federation: Comments on the Russian Federation's Status as a Market Economy Country Under the Antidumping Duty Laws* (Sept. 10, 2021) (ITA-2021-0003), attached as **Exhibit 8**.

the loss of thousands of U.S. manufacturing and related jobs. The fact that Chinese plywood producers began to seek ways to end-run trade remedy duties in mere anticipation of trade remedy duties underscores the critical need for comprehensive duties on Chinese imports of plywood. The Section 301 duties provide just such a comprehensive tariff scheme, benefitting U.S. companies and their workers.

Please do not hesitate to contact us with any questions that you may have.

Respectfully submitted,

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ATTACHMENT**Tariff Lines Applicable to Chinese Plywood Products***(All Subject to 25% "List 3" Section 301 Duties)*

4412.10.05, 4412.10.90, 4412.31.06, 4412.31.26, 4412.31.42, 4412.31.45, 4412.31.48,
 4412.31.52, 4412.31.61, 4412.31.92, 4412.33.06, 4412.33.26, 4412.33.32, 4412.33.57,
 4412.34.26, 4412.34.32, 4412.34.57, 4412.39.10, 4412.39.30, 4412.39.40, 4412.39.50,
 4412.41.00, 4412.42.00, 4412.51.10, 4412.51.31, 4412.51.41, 4412.51.51, 4412.52.10,
 4412.52.31, 4412.52.41, 4412.52.51, 4412.59.95, 4412.91.06, 4412.91.10, 4412.91.31,
 4412.91.41, 4412.92.07, 4412.92.11, 4412.92.31, 4412.92.42

Quantity of Imports from China Under Affected Tariff Lines

Quantity Description	Year 2016	Year 2017	Year 2018	Year 2019	Year 2020	Year 2021
cubic meters	96,515	326,319	857,113	405,417	319,295	411,575
square meters	0	0	0	0	0	0
	96,515	326,319	857,113	405,417	319,295	411,575

Quantity Description	2021 YTD (Jan - Apr)	2022 YTD (Jan - Apr)
cubic meters	90,713	155,391
square meters	0	11,271
	90,713	166,662

EXHIBIT LIST		
Exhibit No.	Exhibit	Security
1	Tenth Five-Year Plan for National Economic and Social Development, Government of the People's Republic of China	Public
2	Twelfth Five-Year Plan for Economic and Social Development, Government of the People's Republic of China	Public
3	Resolution by the Chinese Communist Party Central Committee and the State Council on Accelerating the Development of Forestry (June 25, 2003)	Public
4	<i>Temporary Provisions on Promoting Industrial Structure Adjustment</i> , AsianLII (2005)	Public
5	<i>Directory Catalogue on Readjustment of Industrial Structure (Version 2005)</i> , China Trade in Services (Dec. 6, 2007)	Public
6	<i>Catalogue for the Guidance of Foreign Investment Industries (Amended in 2011)</i> , Ministry of Commerce People's Republic of China (Feb. 21, 2012)	Public
7	<i>GOC's Catalogue for the Guidance of Industrial Structure Adjustment (2011 Version)</i>	Public
8	Letter from Wiley Rein LLP to Sec'y Commerce, re: <i>Urea Ammonium Nitrate Solutions from the Russian Federation: Comments on the Russian Federation's Status as a Market Economy Country Under the Antidumping Duty Laws</i> (Sept. 10, 2021) (ITA-2021-0003) (excerpt)	Public