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Circumvention Inquiry
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MEMORANDUM TO: The File

THROUGH: Kabir Archuletta *K.A.*
Program Manager
AD/CVD Operations, Office V

FROM: Rachel Jennings *RJ*
Senior International Trade Analyst
AD/CVD Operations, Office V

RE: Scope and Circumvention Inquiries of the Antidumping and
Countervailing Duty Orders Certain Hardwood Plywood from the
People's Republic of China

SUBJECT: Extension of Deadline to Certify Certain Entries of Hardwood
Plywood and Response to Request to Modify Cash Deposit
Instructions

On June 17, 2020, the Department of Commerce (Commerce) published the *Initiation Notice* in the circumvention and scope inquiries of the antidumping and countervailing duty orders on certain hardwood plywood products (hardwood plywood) from the People's Republic of China.¹ On July 29, 2022, Commerce published its preliminary determination in the above-referenced proceeding.² Between August 10, 2022, and September 8, 2022, several interested parties submitted requests to Commerce to: (1) extend the deadline for importers and exporters to certify hardwood plywood exported from Vietnam that was entered, or withdrawn from warehouse, for consumption on or after June 17, 2020 (the publication of the *Initiation Notice*), and until August 28, 2022 (30 days after the publication of the *Preliminary Determination*);³ and

¹ See *Certain Hardwood Plywood Products from the People's Republic of China: Initiation of Anti-Circumvention and Scope Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 85 FR 36530 (June 17, 2020) (*Initiation Notice*).

² See *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Scope Determination and Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 87 FR 45753 (July 29, 2022) (*Preliminary Determination*).

³ See Bao Chau Viet Nam Wood Company Limited, Hai Hien Bamboo Wood Joint Stock Company, An An Plywood Joint Stock Company, Fulin Wood Import Export Company Limited, Nhung Xuong Company Limited, Greatwood Joint Stock Company, VietNam ZhongJia Wood Company Limited, Thai Hoang Trading and Construction JSC, Quoc Thai Forestry Import Export Limited Company, Eagle Industries Company Limited, TEKCOM Corporation, Greatwood Hungyen Joint Stock Company, TL Trung Viet Company Limited, Win Faith



(2) modify the cash deposit instructions (CDIs) issued to U.S. Customs and Border Protection (CBP) to specifically exclude certain entries of non-inquiry merchandise from the certification program established in the *Preliminary Determination*.⁴

In consideration of the reasons outlined in the extension requests, we are hereby extending the deadline for the certification of hardwood plywood that was not produced under any of the five production scenarios found to be in scope or circumventing the *Orders*,^{5,6} and that was shipped and/or entered, or withdrawn from warehouse, for consumption in the United States from June 17, 2020, through August 28, 2022, by 80 days.⁷ The current deadline to complete these certifications is September 12, 2022 (*i.e.*, 45 days after the publication of the *Preliminary Determination*). The new deadline for parties to certify shipments/entries/warehouse-withdrawals of hardwood plywood, as described above, is now **December 1, 2022**. Upon issuance of this memorandum, Commerce will amend the CDIs sent to CBP with the revised certification deadline, and will issue notice to the public of this extension via the *Federal Register*.

Trading Limited, VVAT Company Limited, Golden Bridge Industries Pte. Ltd, Lechenwood Viet Nam Company Limited, Long LUU Plywood Production Co., Ltd., Arrow Forest International Co., Ltd., and Her Hui Wood (Vietnam) Co., Ltd. (collectively, DKH Exporters)'s Letter, "Extension of Time Request for Providing Exporter Certifications and Supporting Documentation," dated September 8, 2022; and Huiling Wood Products (Vietnam) Co, Ltd, Innogreen Thanh Hoa Co. Ltd, Govina Investment Joint Stock Company, Plywood Sunshine Ltd., Quang Phat Wood JSC and Thang Long Wood Panel Company's Letter, "Request for Extension of Time for Completion of Certification Process for Past Entries," dated September 8, 2022.

⁴ See Concannon Lumber Company, Hardwood Specialty Products US, Holland Southwest International, Inc., Northwest Hardwoods, Inc., Richmond International Forest Products LLC, Taraca Pacific Inc., UFP International, LLC, and USPLY LLC (collectively, Importer Coalition)'s Letter, "Request to Correct Cash Deposit Instructions," dated August 10, 2022; *see also* Patrick Industries, Inc.'s Letter, "Request to Correct Customs Instructions," dated September 8, 2022 (Importer Coalition Request to Modify CDIs); Tumac Lumber Company Inc.'s Letter, "Tumac's Request to Correct Cash Deposit Instructions," dated September 8, 2022; DKH Exporters' Letter, "Request that the Department Honor its Commitment to a Safe Harbor for Merchandise Not Subject to Scope and Anti-Circumvention Inquiries," dated September 8, 2022 (DKH Exporter Request to Modify CDIs).

⁵ See *Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018); and *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order*, 83 FR 513 (January 4, 2018) (collectively, *Orders*).

⁶ Specifically, hardwood plywood produced under the following scenarios are covered, or are circumventing, the *Orders*:

1. Face veneer, back veneer, and assembled core components (*e.g.*, veneer core platforms) ... manufactured in China and assembled in the Socialist Republic of Vietnam (Vietnam);
2. Fully assembled veneer core platforms manufactured in China that are combined in Vietnam with face and/or back veneers produced in Vietnam or third countries;
3. Multi-ply panels of glued core veneers manufactured in China that are combined in Vietnam to produce veneer core platforms and combined with either a face and/or back veneer produced in China, Vietnam, or a third country;
4. Face veneer, back veneer, and individual core veneers produced in China and assembled into hardwood plywood in Vietnam; and
5. Individual core veneers manufactured in China and processed into a veneer core platform in Vietnam and combined with a face and/or back veneer produced in Vietnam or other third country.

⁷ See *Preliminary Determination*, 87 FR at 45756.

Regarding the requests to modify the preliminary CDIs sent to CBP, parties argue that Commerce incorrectly omitted a production scenario that Commerce stated was not covered by these scope and circumvention inquiries on hardwood plywood assembled in Vietnam. Specifically, parties state that the preliminary CDIs should expressly state that:

entries of hardwood plywood with “core veneers fully produced in Vietnam or a third-country that are assembled into a veneer core platform in Vietnam and combined with a face and back veneer produced in China” are not subject merchandise and are not covered by any affirmative finding in this scope/circumvention proceeding.⁸

Further, parties argue that merchandise produced under the above-described scenario should not be subject to the CDIs and the associated cash deposit or certification requirements.⁹

Commerce is hereby declining to modify the description of the merchandise covered by the certification requirements in the preliminary CDIs. In the preliminary CDIs, Commerce notified CBP that, as a result of the *Preliminary Determinations*, hardwood plywood produced under three production scenarios are covered by the scope of the *Orders* and hardwood plywood produced under two production scenarios are circumventing the *Orders*.¹⁰ Notably, the production scenarios detailed in the preliminary CDIs were limited to the scenarios that are covered by these inquiries, and not one of the many permutations, including the scenario identified in several record submissions, of hardwood plywood production in Vietnam that are not covered by these inquiries. Indeed, the purpose of the certification program is to allow parties to certify that entries of hardwood plywood assembled in Vietnam were not produced under any of the five production scenarios subject to our inquiry. Hardwood plywood assembled in Vietnam and produced under all other production scenarios is eligible to be certified as non-subject merchandise. In general, as long as eligible exporters and importers meet the requirements of the certification program, hardwood plywood exported from Vietnam produced outside of the five production scenarios outlined in the CBP instructions should not be subject to the cash deposit requirements provided in the preliminary CDIs.

⁸ See e.g., Importers Coalition Request to Modify CDIs at 2.

⁹ *Id.* at 2; see also e.g., DKH Vietnamese Exporter Request to Modify CDIs at 2.

¹⁰ *Id.* at Exhibit 1. Specifically, Commerce notified CBP that hardwood plywood produced under the following scenarios are covered by the *Orders* or are circumventing the *Orders*:

1. Face veneer, back veneer, and assembled core components (e.g., veneer core platforms) ... manufactured in China and assembled in the Vietnam;
2. Fully assembled veneer core platforms manufactured in China that are combined in Vietnam with face and/or back veneers produced in Vietnam or third countries;
3. Multi-ply panels of glued core veneers manufactured in China that are combined in Vietnam to produce veneer core platforms and combined with either a face and/or back veneer produced in China, Vietnam, or a third country;
4. Face veneer, back veneer, and individual core veneers produced in China and assembled into hardwood plywood in Vietnam; and
5. Individual core veneers manufactured in China and processed into a veneer core platform in Vietnam and combined with a face and/or back veneer produced in Vietnam or other third country.

Moreover, hardwood plywood produced from core veneers fully produced in Vietnam or a third-country that are assembled into a veneer core platform in Vietnam and combined with a face and back veneer produced in China is not always distinguishable from hardwood plywood produced under the five scenarios subject to these inquiries at the time of entry. Accordingly, because it is Commerce's practice to establish certification programs for merchandise that is not circumventing an order, but is not always physically distinguishable at entry from in-scope/inquiry merchandise,¹¹ we find that it is not appropriate to specifically exclude this scenario from the certification program.

¹¹ See e.g., *Hydrofluorocarbon Blends from the People's Republic of China: Final Scope Ruling on Unpatented R-421A; Affirmative Final Determination of Circumvention of the Antidumping Duty Order for Unpatented R-421A*, 85 FR 34416, 34417 (June 4, 2020), and accompanying Issues and Decision Memorandum at Comment 5.