



U.S. Customs and
Border Protection

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PUBLIC VERSION

EAPA Case Number: 7520

Julie C. Mendoza
On behalf of BGI Group Inc. dba U.S. Cabinet Depot
Morris, Manning & Martin, LLP
1401 Eye St., NW
Suite 600
Washington, DC 20005
TradeService@mmmlaw.com.

Luke A. Meisner
On behalf of the American Kitchen Cabinets Alliance
Schagrin Associates
900 Seventh Street, NW
Suite 500
Washington, DC 20001
lmeisner@schagrinassociates.com

Notice of Initiation of Investigation - EAPA Case 7520

Dear Counsel and Representatives of the above-referenced Entities:

This letter is to inform you that U.S. Customs and Border Protection (“CBP”) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (“EAPA”), for BGI Group Inc. dba U.S. Cabinet Depot (“BGI”). CBP is investigating whether BGI has evaded the antidumping (“AD”) and countervailing duty (“CVD”) orders A-570-106 and C-570-107, respectively, on wooden cabinets and vanities and component parts thereof (“WCV”) from the People’s Republic of China.¹ Because evidence reasonably suggests that BGI entered covered

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 BGI Group Inc. d/b/a U.S. Cabinet Depot for Transshipment through Cambodia, dated August 14, 2020” (“Allegation”), submitted by American Kitchen Cabinets Alliance (“AKCA”), 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) 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), respectively. 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

merchandise for consumption into the customs territory of the United States through evasion, CBP is issuing a formal notice of investigation (“NOI”).

Period of Investigation

Pursuant to 19 C.F.R. § 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation....” Entry is defined as an “entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.” *See* 19 C.F.R. § 165.1. CBP acknowledged receipt of the properly filed allegation against BGI on August 26, 2020.² The entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from August 26, 2019, through the pendency of this investigation. *See* 19 C.F.R. § 165.2.

Initiation

On September 17, 2020, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, initiated an investigation under EAPA as the result of the Revised Allegation submitted by the American Kitchen Cabinets Alliance (“AKCA”), as to evasion of antidumping duties by BGI.³ AKCA alleged that available information reasonably suggests BGI evaded the AD order with respect to Chinese-origin WCV transshipped through Cambodia.⁴

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation...reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion.” *See* 19 C.F.R. §165.15(b). 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

9, 2019, the respective publication dates of the affirmative preliminary determinations in the Commerce investigations. *See* Allegation at Exhibit 2 and Exhibit 1, respectively.

The Allegation includes references to affidavits from two colleagues with experience in the industry. *See e.g.* Allegation at 8-9. The business confidential versions of the affidavits were submitted separately from the allegation. *See* Affidavit 1 and Affidavit 2, both dated August 14, 2020. The counsel submitting those affidavits later clarified that the party that employs the two affiants has been an importer of the merchandise. *See* Email from Affiants Counsel, dated August 20, 2020.

Finally, on August 19, 2020, AKCA submitted a revised allegation identifying the participating members of AKCA which filed the initial allegation and those which filed the revised allegation. *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 BGI Group Inc. d/b/a U.S. Cabinet Depot for Transshipment through Cambodia,” dated August 19, 2020 (“Revised Allegation”), at 4 (footnote 3).

² *See* August 26, 2020 email entitled “Receipt of EAPA Allegation 7520: Wooden Cabinets and Vanities and Components Thereof from China through Cambodia.”

³ *See* Memorandum to Brian M. Hoxie, Director, Enforcement Operations Division, “Initiation of Investigation for EAPA Case Number 7520 – BGI Group Inc. dba U.S. Cabinet Depot” (September 17, 2020) (“Initiation Memo”)

⁴ *See* Revised Allegation.

applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.” See 19 C.F.R. §165.1. Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer alleged to be evading, but that such entry was made by a material false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the claims made and evidence provided in the allegation, TRLED found that the allegation reasonably suggests that BGI is evading AD/CVD orders A-570-106 and C-570-107, respectively, by importing Chinese origin WCV into the United States that had been transshipped through Cambodia and failing to declare the merchandise as subject to the applicable AD/CVD orders. TRLED concluded that AKCA had submitted documentation reasonably available to it, including aggregate U.S. import data, individual shipment data sourced from Panjiva, and a sworn affidavit from an industry figure, that suggested WCV produced in China is being repackaged in Cambodia and then shipped to the United States for entry by BGI, and that such merchandise is being classified by BGI at time of entry as a product of Cambodia rather than China.⁵

Specifically, AKCA submitted documentation that reasonably suggests WCV produced in China is being imported into the United States with Cambodia falsely declared as the country of origin. AKCA presented U.S. import data showing surging volumes of imports from Cambodia subsequent to the suspension of liquidation of entries of merchandise from China due to the AD/CVD investigations.⁶ AKCA also provided Panjiva data indicating BGI had a history of receiving shipments of such furniture from China.⁷ Furthermore, AKCA referenced an affidavit from an industry figure indicating the following:

- The owners of Gaomi City Haitian Wooden Ware Co., Ltd. (“GCHWW”) and Xuzhou Longyuan Wood Industry Co. (“XLWI”), the Chinese companies that actually manufactured the WCV in question in China, established Cambodia Golden Coast Wood Products Co., Ltd. (“Golden Coast”), a Cambodian company that claimed to be a manufacturer of WCV, and that an owner of BGI may own stakes in those Chinese entities.⁸
- That the WCV components manufactured in China (doors, drawer fronts, and face frames) representing the solid wood components of a Ready-To-Assemble (“RTA”) cabinet and representing the majority of the cabinet’s value, are individually packaged in China such that they are ready to be included in a flatpack box with the remainder of components (primarily finished plywood pieces that comprise the “carcass” of the cabinet) to produce a full RTA cabinet, and that those major components are shipped to

⁵ See Initiation Memo at 3-4.

⁶ *Id.* at 2, citing Allegation at 10.

⁷ *Id.* at 2, citing Allegation at 9 and Exhibit 5.

⁸ *Id.* at 2, citing Affidavit 1.

Golden Coast, where they are combined with the finished plywood pieces that comprise the “carcass” of the cabinet.⁹

- That the cardboard boxes used in Cambodia for final packaging may have been produced and printed in China.¹⁰
- That based on []¹¹
- In addition, [], and that []

The allegation and accompanying affidavit therefore reasonably suggests that covered merchandise has entered into the customs territory of the United States by means of evasion, and that BGI may have been importing such merchandise. Consequently, TRLED initiated the investigation for BGI’s imports of covered merchandise that were alleged to be entered for consumption into the customs territory of the United States through evasion, pursuant to 19 U.S.C. §1517(b)(1).¹²

Research

Research conducted by TRLED suggests that Golden Coast [] a Cambodian company named []¹³ Data relating to exports from Cambodia during the period January 2019 through October 2020 obtained by Department of Homeland Security (“DHS”) officials identify [] wooden kitchen furniture exports to the United States []. These data also identify [] wooden kitchen furniture exports to the United

⁹ *Id.* The Allegor states that even if Golden Coast actually engaged in some minimal amount of processing of the WCV in Cambodia, the WCV would still be subject to the AD and CVD orders, because the scope of the orders specifically cover “wooden components required to assemble a cabinet or vanity (including drawer faces and doors)” as well as “parts.” Thus, the Allegor argues, if Golden Coast was taking Chinese WCV components and packaging them with other components in a single flatpack box in Cambodia, the WCV components of Chinese origin would still be subject to the orders. *See* Revised Allegation at 11. Note that the reference to this point in the Initiation Memo including an inadvertent reference to a company other than Golden Coast. *See* Initiation Memo at 3 (footnote 7).

¹⁰ *Id.* at 2-3, citing Affidavit 1.

¹¹ *Id.* at 3, citing Affidavit 1.

¹² *Id.* at 4.

¹³ *See e.g.* “Internet Info (Company Name)” (September 18, 2020) (which identifies [] versus Revised Allegation at 7, citing [] (which identifies []).

States [].¹⁴ In addition, TRLED examined shipment information from CBP’s data systems, and noted that specific shipments involved Golden Coast and [] in [].¹⁵ These observations suggest an operational relationship, and perhaps affiliation, between Golden Coast and [].

With the exception of [], the [] do not identify imports into Cambodia from China of wooden kitchen furniture or components by Golden Coast or []. Those data do identify imports by Golden Coast from [] of [] and other products that, based on the tariff classifications identified by the data source, could have been used in the production of wooden kitchen furniture. Those data also identify imports by [] of such products from [].¹⁶

CF28 Responses

As part of the EAPA investigation process, CBP has requested and reviewed documentation submitted by BGI in response to Customs Form (“CF”) 28 requests for information for two entries by BGI for which the reported Manufacturer Identification (“MID”) is that of Golden Coast or []. CBP requested sale, production, and factory documentation from each importer. BGI requested extensions of the deadlines for submitting its responses, and the current deadline for submission of the CF28 response for which the reported MID is Golden Coast is a date after the date of this NOI.

On November 30, 2020, BGI submitted its CF28 response for the entry for which the reported MID is [].¹⁷ The certificate of incorporation document provided in BGI’s CF28 response indicates that [] was incorporated in [].¹⁸ An invoice identified by BGI as one issued by [] identifies the following address for the latter entity: [

].¹⁹ BGI’s CF28 response indicates that the annual production capacity of [] is “about [] containers.”²⁰

¹⁴ See “Golden Coast and Other Entity Imp and Exp Data,” dated November 22, 2020 (“[]”). DHS [] import and export records for Golden Coast and [].

¹⁵ See CBP Systems Data (Golden Coast) (November 13, 2020).

¹⁶ See [],” dated November 22, 2020.

¹⁷ See CF28 Response for Entry 0386, dated November 30, 2020 (“CF28 response”).

¹⁸ *Id.* at Attachment 15.

¹⁹ *Id.* at Attachment 1.

²⁰ *Id.* in narrative.

Based on the entry summary for the entry in question, the merchandise was imported into the United States on [], and the date of entry was [].²¹ The entry summary identifies the date of export from Cambodia as [].²² It indicates the volume of the entry is [] kg, and the customs value \$[].²³ The bill of lading indicates the shipment consisted of [] cartons, as do the packing list and the invoice, both of which are dated [].²⁴

The CF28 response also contains a country of origin certificate stating the [] cartons were shipped on [], and that the country of origin was the Kingdom of Cambodia, consistent with how the entry was reported by the importer. However, that certificate also contains [].²⁵

BGI states in the CF28 response that [] was the producer of the merchandise.²⁶ With regard to production information submitted by BGI, many of the [] production documents provided in the CF28 response are dated in [].²⁷ Many of the [] raw material purchase documents provided in the CF28 response are dated in [].²⁸

BGI's CF28 response contains pages summarizing information for what appear to be several purchase orders from BGI to [] dated in [].²⁹ The first one is [] purchase order number [], the purchase order number also appearing on the invoice.³⁰ The value for this purchase order is identified as \$[], rather than the \$[] on the aforementioned invoice, presumably because there may be other shipments and invoices associated with the underlying purchase order. Bank wire transfer information is included, though it is not evident how the information in those documents would tie to the invoice provided for the entry in question.³¹

²¹ *Id.* at Attachment 1.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at Attachment 3.

²⁶ *Id.* in narrative.

²⁷ *Id.* at Attachment 6, containing references to [

]. The narrative of BGI's CF28 response distinguishes [] as “[

].” It is not evident from the CF28 response, however, how the production records provided for [] are tied to the purchase orders either.

²⁸ *Id.* at Attachment 7 ([]), Attachment 8 ([]), Attachment 9 ([]), Attachment 10 ([]), and Attachment 11 ([]). [], or [], appear to be references to pieces of wood, given the dimensions identified in Attachment 8 for that product. *Id.* at Attachment 8.

²⁹ *Id.* at Attachment 2.

³⁰ *Id.* at Attachment 2 and Attachment 1, respectively.

³¹ *Id.* at Attachment 4.

Site Visits

On December 9, 2020, DHS officials visited the respective facilities of [] and Golden Coast, and their observations were summarized in a report.³²

DHS officials found that [

]. An individual identified as [].

During discussions, DHS officials were informed that [] had been in operation for approximately [], and that in approximately March 2020, [] as a separate production facility dedicated to the production of cabinets, while [] used in cabinet production. DHS was also informed that Golden Coast began cabinet production in [], that prior to that date, there was no cabinet production, and that [] had produced [], including some used [].

At the Golden Coast facility, DHS personnel observed the range of processes associated with the manufacturing and processing of wooden cabinet parts, including machinery used for cutting large sheets of plywood into cabinet box sections, and other machinery used to make doors, door frames, and drawer components from smaller cuts of wood. DHS officials observed [] machines in total, which they were told had been installed []. The company official leading the tour indicated to DHS officials that the Golden Coast facility only produces cabinets [] and averages [] per month to [].

Analysis

Based on record evidence, CBP determines that evidence reasonably suggests BGI Group imported WCV into the United States that were transshipped from China through Golden Coast and/or [] in Cambodia, and should have been subject to AD/CVD orders A-570-106 and C-570-107.

Information from the Allegation, and cited in the Initiation Memo, support such a conclusion. For example, U.S. import data show surging volumes of imports from Cambodia subsequent to the suspension of liquidation of entries of merchandise from China after the AD/CVD investigations began, and Panjiva data indicate BGI had a history of receiving shipments of such furniture from China. In addition, the affidavit cited in the allegation contained assertions that [], that [], and that [].

³² See the December 11, 2020 Site Visit Memorandum with Attached Report (“Site Visit Memo”).

Additional information obtained by CBP also reasonably suggest transshipment was occurring. Although Golden Coast staff indicated to DHS officials that [], nothing provided to DHS substantiates the claim that [], the month of the reported export date for the entry by BGI associated with its submitted CF28 response. Furthermore, BGI indicated in that CF28 response that the imported merchandise for the entry in question was produced by [], and as noted DHS was told that []. Finally, as indicated above, research by CBP and statements made to DHS during its site visits indicate that Golden Coast and [] appear to have been [], which provides a rationale for applying this investigation of BGI's entries to transactions involving both of those Cambodian entities.

According to 19 CFR 165.15(d)(1), CBP will issue notification of its decision to initiate an investigation to all parties to the investigation no later than 90 calendar days after the decision has been made, and the actual date of initiation will be specified therein. On September 17, 2020, TRLED initiated an investigation, and the additional information discussed immediately above (*i.e.*, research, analysis of a CF28 response, and DHS site visits) also supports the conclusion that the evidence reasonably suggests BGI entered covered merchandise for consumption into the customs territory of the United States through evasion, and thus, such covered merchandise should have been subject to the applicable AD and CVD duties on WCV from China. If, pursuant to its investigation, CBP determines that substantial evidence of evasion exists, CBP will take appropriate measures to protect the revenue.

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please also provide public versions in compliance with 19 CFR 165.4(a)(2) to CBP and to the parties identified at the top of this notice.³³ Should you have any questions regarding this investigation, you may contact us at eapallegations@cbp.dhs.gov with "EAPA Case 7520" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

³³ See 19 CFR 165.4; *see also* 19 CFR 165.23(c) and 165.26.

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