



**U.S. Customs and
Border Protection**

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PUBLIC VERSION

EAPA Case Number: 7603

Yuqian Lu
BGI Group Inc. dba U.S. Cabinet Depot
1039 Northpoint Pkwy SE, Suite A
Acworth, GA 30102
yuqian@uscabinetdepot.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 and Interim Measures - EAPA Case 7603

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 supports a reasonable suspicion that BGI

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 Vietnam*, dated February 26, 2021 (“Revised Allegation”), submitted by American Kitchen Cabinets Alliance (“AKCA” or “Alleger”), 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. See Revised Allegation at Exhibit 2 and Exhibit 1, respectively. AKCA consists of various domestic producers of WCV. See Revised Allegation at 3-4 (footnote 3).

The Revised Allegation includes references to affidavits from two individuals with experience in the industry. See e.g., Revised Allegation at 6-8. The business confidential versions of the affidavits were submitted separately from the allegation. See Affidavit 1 and Affidavit 2, both dated January 19, 2021. The counsel

entered covered merchandise into the customs territory of the United States through evasion, CBP has imposed interim measures.²

Period of Investigation

Pursuant to 19 CFR 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 CFR 165.1. CBP acknowledged receipt of the properly filed allegation against BGI on March 5, 2021.³ The entries covered by the investigation are those entered for consumption, or withdrawn from warehouse for consumption, from March 5, 2020, through the pendency of this investigation. *See* 19 CFR 165.2.

Initiation

On March 26, 2021, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, initiated an investigation under EAPA as the result of the allegation submitted by AKCA as to evasion of antidumping duties by BGI.⁴ AKCA alleged that available information reasonably suggests BGI evaded the AD and CVD orders with respect to Chinese-origin WCV transshipped through Vietnam.⁵

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 CFR 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 applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.” *See* 19 CFR 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 Revised Allegation, TRLED found that the Revised 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 Vietnam 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

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 April 22, 2021.

² *See* 19 USC 1517(e); *see also* 19 CFR 165.24.

³ *See* March 5, 2021 email from TRLED to counsel for the Allegor.

⁴ *See* Memorandum to Brian M. Hoxie, Director, Enforcement Operations Division, “Initiation of Investigation for EAPA Case Number 7603 – BGI Group Inc. dba U.S. Cabinet Depot” (March 26, 2021) (“Initiation Memo”)

⁵ *See* Revised Allegation.

from Panjiva and from [[data source](#)], and affidavits from industry figures, that suggested WCV produced in China is being repackaged in Vietnam 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 Vietnam rather than China.⁶

Specifically, AKCA submitted documentation that reasonably suggests WCV produced in China is being imported into the United States with Vietnam falsely declared as the country of origin. AKCA presented U.S. import data showing surging volumes of imports under a relevant HTSUS code (9403.40.9060 (Kitchen Cabinets for Permanent Installation)) from Vietnam subsequent to the suspension of liquidation of entries of merchandise from China due to the AD/CVD investigations.⁷ AKCA also provided Panjiva data indicating BGI had a history of receiving shipments of such furniture from China, and that BGI received shipments from Vietnam during 2019 and 2020.⁸

Furthermore, AKCA referenced an affidavit from one industry figure indicating the following:

- That HOCA Kitchen and Bath Products International Co., Ltd. (“HOCA Vietnam”), while claiming to be a manufacturer of WCV, actually appears to be a company established by the owners of a company in China named Hangzhou HOCA Kitchen & Bath Product (“Hangzhou HOCA”).⁹
- That three-piece components (doors, drawer fronts, and face frames) are being produced and packaged at Gaomi City Haitian Wooden Ware Co., Ltd. (“GCHWW”) in Gaomi, China, that the packaged three-piece components, which represent the majority of the cabinet’s value, are then shipped from China to factories in other countries, including HOCA Vietnam, and that those components are included in a flatpack box along with the remainder of the components used to produce a Ready-To-Assemble (“RTA”) cabinet, primarily finished plywood pieces that comprise the “carcass” of the cabinet.¹⁰
- That the cardboard boxes used in Cambodia for final packaging may have been produced and printed in China and that a BGI owner may also own a stake in HOCA Vietnam.¹¹

⁶ See Initiation Memo at 3-4.

⁷ *Id.* at 3, citing Revised Allegation at 11. AKCA notes that “{p}rior to the imposition of AD/CVD duties, imports of kitchen cabinets from Vietnam averaged roughly \$5 million per year,” that “{i}mports then decreased dramatically in 2019 to \$50 million after the preliminary AD/CVD duties were imposed,” and that “{t}he following year, 2020, imports of kitchen cabinets from Vietnam increased by over 662% to \$385 million.” See Revised Allegation at 11.

⁸ See Initiation Memo at 3, citing Revised Allegation at 10 and Exhibit 5.

⁹ *Id.* at 2, citing Revised Allegation at 7 and Exhibit 11, and the business confidential version Affidavit 1, dated January 19, 2021 (“Affidavit 1”). AKCA cites other information indicating that Hangzhou HOCA was established in 2008 as a joint venture that has “complete cabinet production facilities.” *Id.* at 2, citing Revised Allegation at 7 and Exhibit 10. Note that HOCA Vietnam is also referred to as HOCA (Vietnam) Kitchen and Bath Products International Co., Ltd. See *e.g.*, Revised Allegation at 7.

¹⁰ See Initiation Memo at 2, citing Revised Allegation at 8-9 and Exhibit 11, and Affidavit 1. The Allegor states that even if HOCA Vietnam actually engaged in some minimal amount of processing of the WCV in Vietnam, 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 HOCA Vietnam was taking Chinese WCV components and packaging them with other components in a single flatpack box in Vietnam, the WCV components of Chinese origin would still be subject to the orders. *Id.* at 2, citing Revised Allegation at 12.

¹¹ *Id.* at 2, citing Affidavit 1.

- That corporate registration documents show that the BGI Group’s CEO has incorporated a company in Georgia named “BGI HOCA.”¹²

AKCA referenced another affidavit, from a second industry figure, indicating the following:

- That based on [*basis for affiant information*], its production capabilities could support no more than 30 containers per month, [*comparison figures*].
- That [*period and individual*] spoke with the [*individual*], the company that [*business activities*] to HOCA Vietnam, and [*individual*] confirmed that the [*items*] on hand at the HOCA Vietnam factory, as well as the volume of [*items*], is enough to produce doors, drawer fronts, and face frames for no more than 30 containers per month.
- That [*individual*] that [*business activity*] to HOCA indicated that [*individual and comment related to business activities*], and that this [*individual*] and others the affiant had spoken to were confident these components are coming from China.¹³

Finally, in support of its claim that HOCA Vietnam is transshipping major components of wooden cabinets and vanities, the Allegor submitted data from [*data source*] that provides details regarding specific shipments of merchandise imported into and exported from Vietnam. The data cover the eight-month time period of April 2020 (the month in which the AD/CVD orders were issued) through November 2020 and indicate over 700,000 metric tons of cabinet doors and door frames shipped to Vietnam by various Chinese suppliers the Allegor indicates are wooden cabinet manufacturers, including Hangzhou HOCA. The approximately 700,000 metric tons reflect thousands of line items labeled as cabinet doors and door frames shipped to two Vietnamese companies with the same address and similar names to that of HOCA Vietnam: HOCA Kitchen Hygiene International Co. Ltd. (Vietnam) and HOCA Household House Hygiene Co. Ltd. (Vietnam).¹⁴

The Revised Allegation and accompanying affidavit therefore reasonably suggest 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 from HOCA Vietnam. 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 USC 1517(b)(1).¹⁵

¹² *Id.* at 2, citing Revised Allegation at 10 and Exhibit 9.

¹³ *Id.* at 2-3, citing Revised Allegation at 8 and Exhibit 14, and the business confidential version Affidavit 2, dated January 19, 2021 (“Affidavit 2”).

¹⁴ *Id.* at 3, citing Revised Allegation at 8-10 and Exhibit 15. *See also* Revised Allegation at Exhibits 16, 17, and 18.

¹⁵ *See* Initiation Memo at 4.

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD orders was entered into the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be evading entered merchandise covered by an AD or CVD order into the United States by a materially false statement or act, or material omission, that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because there is a reasonable suspicion that the importer entered covered merchandise into the United States through evasion by means of transshipment through the Vietnam.¹⁶

Site Visits

During late 2020, [U.S. Government entity] visited the facilities of HOCA Vietnam.¹⁷ On its second visit, [U.S. Govt. entity] was allowed to interview staff and to tour the facilities. During this second visit, [U.S. Govt. entity] observed the production of WCV parts and viewed packaged kits.¹⁸ Staff at the facility indicated that approximately [number] cabinet kits are produced annually. [U.S. Govt. Entity] noted they were informed that “all exports are shipped to [number of entities, and countries].”¹⁹

Research

Data reflecting Vietnamese imports from China during the period January 2019 through March 31, 2021 obtained by [U.S. Government entity staff] from [data source] indicate imports by [entity] of [number] pieces of merchandise classified under a Vietnamese tariff number that includes wooden parts.²⁰ [Entity] is [entity description]. Furthermore, the Chinese exporters identified in the [data source] data include, but are not limited to, [entities].

CF28 Response

As part of the EAPA investigation process, CBP requested and reviewed documentation submitted by BGI in response to Customs Form (“CF”) 28 request for information for one entry by BGI for which the reported Manufacturer Identification (“MID”) is HOCA Vietnam. CBP requested sale, production, and factory documentation from BGI, and BGI submitted its CF28 response on May 5, 2021.

¹⁶ See 19 CFR 165.24(a).

¹⁷ See the June 16, 2021 USG site visit report memorandum (“Site Visit Report”).

¹⁸ *Id.* at 2-6.

¹⁹ *Id.* at 2.

²⁰ See the June 15, 2021 Vietnam Import Data Memorandum. See also the June 24, 2021 Vietnam tariff code information.

In its CF28 response, BGI claimed that HOCA Vietnam's owners [entity and business activities], and that HOCA Vietnam [business activity]. BGI claimed that [entity and business activity] than HOCA Vietnam, and that [entity] equipment [business activity] from HOCA Vietnam [business strategy]. BGI further claimed that [entity and business activity], meaning that [entities and business activities]. According to BGI, for the merchandise covered by the entry identified in the CF28, [entities and business activities], which BGI claims is located at [address].²¹

BGI did not explain in its CF28 response how it was aware of the activities of [entities], and there is no indication that [US Govt. entity] was informed during its discussions with HOCA Vietnam officials of [entities and business activities].²²

Analysis

Based on record evidence, CBP determines that evidence supports reasonable suspicion that BGI Group imported WCV into the United States that were transshipped from China through HOCA Vietnam, which is located in Vietnam, and should have been subject to AD/CVD orders A-570-106 and C-570-107.

Information from the Revised Allegation, and cited in the Initiation Memo, support such a conclusion. For example, U.S. import data show surging volumes of imports from Vietnam 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 affidavits cited in the Revised Allegation contained assertions from observers [business activities]. The Revised Allegation also cited shipment data indicating large volumes of parts being shipped to the HOCA Vietnam location, even if the consignees identified for those shipments had slightly differing names from that of HOCA Vietnam.

Furthermore, Vietnamese import data that [US Govt Entity staff] obtained from [data source] indicate that [entity and business activities] during the period January 1, 2019 through March 31, 2021, and approximately [number] in 2020 alone. The fact that HOCA Vietnam informed [US Govt. entity] that [business activities] supports the conclusion that at least a substantial number of Chinese parts, such as wooden doors and frames, were being included in the shipments to BGI, and as noted by AKCA, such parts, if originating in China, would be covered by the scope of the AD/CVD orders in

²¹ See May 5, 2021 CF28 Response of BGI.

²² See Site Visit Report.

question. Although BGI has claimed that parts for the WCV [*business activities*], this explanation was not provided to [*US govt entity*] during its HOCA Vietnam site visit in November 2020, which occurred [*time period*].

Enactment of Interim Measures

Based on the record evidence referenced in the Initiation and the additional information discussed above (*i.e.*, research and the observations during the second site visit), CBP determines that reasonable suspicion exists that BGI entered covered merchandise for consumption into the customs territory of the United States through evasion involving HOCA Vietnam, and thus, such covered merchandise should have been subject to the applicable AD and CVD duties on WCV from China. Therefore, CBP is imposing interim measures on BGI's imports of WCV from Vietnam into the United States pursuant to this investigation.²³

Specifically, in accordance with 19 USC 1517(e)(1-3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after March 26, 2021, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under section 504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before March 26, 2021, the date of the initiation of the investigation; and
- (3) pursuant to the Commissioner's authority under section 623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.²⁴

In addition, CBP will require live entry, requiring cash deposits to be posted prior to release of merchandise from CBP custody. CBP will reject any entry summaries that do not comply with live entry procedure and require refile of entries that are within the entry summary rejection period. CBP will also evaluate BGI's continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a business confidential version and a public version with a public summary²⁵ using the EAPA Case Management System (CMS), found at <https://eapallegations.cbp.gov>. All public versions will be accessible to the parties to the investigation via the CMS.²⁶ Should you have any questions regarding this investigation, you may contact us at eapallegations@cbp.dhs.gov with "EAPA Case 7603" 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>.

²³ See 19 USC 1517(e); see also 19 CFR 165.24.

²⁴ See also 19 CFR 165.24(b)(1)(i-iii).

²⁵ See 19 CFR 165.4, 165.23(c), and 165.26.

²⁶ Please note you will need a login name and password to use the CMS. The website will direct you how to obtain those.

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