



## U.S. Customs and Border Protection

### **PUBLIC VERSION**

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Re: Notice of Initiation of Investigation and Interim Measures - EAPA Case 7583

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

The purpose of this notice 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), against CNC Associates (also known as CNC Cabinetry and/or Direct Builders Supply Inc.) (“CNC” or “the Importer”)<sup>1</sup>. CBP is investigating whether the Importer evaded antidumping (AD) and countervailing duty (CVD) orders A-570-106 and C-570-107 (collectively, the “AD/CVD orders”), on wooden cabinets and vanities and components thereof (“WCV”) from the People’s Republic of China (“China”) when importing WCV into the United States.<sup>2</sup> CBP has imposed interim measures because evidence supports a reasonable suspicion that the

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<sup>1</sup> 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,” dated November 17, 2020 (“Allegation”) at pages 5 and 6, citing “CNC Associates NY corporate information for New Jersey, attached at Exhibit 2.” This information also links the importer and Direct Builders Supply, which share the same address; the president or principal of the importer, Mr. Nathen Indig, is also the principal executive officer of Direct Builders Supply.

<sup>2</sup> See Allegation, 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). 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.

Importer entered merchandise covered by the AD/CVD orders into the customs territory of the United States through evasion.<sup>3</sup>

### **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, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”<sup>4</sup> CBP acknowledged receipt of the properly filed allegation against the Importer on January 5, 2021.<sup>5</sup> Therefore, the entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from January 5, 2020, through the pendency of this investigation.<sup>6</sup>

### **Initiation**

On January 28, 2021, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP’s Office of Trade, initiated this investigation under EAPA as a result of an allegation<sup>7</sup> submitted by MasterBrand Cabinets, Inc (“Alleger”)<sup>8</sup> on evasion of AD/CVD duties by the Importer.<sup>9</sup> In its Allegation, the Alleger asserts that available information reasonably suggests the Importer evaded the AD/CVD orders by transshipping the Chinese-origin WCVs through Malaysia by claiming that Bagus Timber Sdn Bhd (“Bagus” or “Manufacturer”) is the manufacturer. The basis for this allegation follows.

The Alleger obtained trade data from the United States International Trade Commission DataWeb, which indicates a significant decrease in U.S. imports of WCV from China under the Harmonized Tariff Schedule of the United States (“HTSUS”) number 9403.40.9060 by nearly 43 percent from 2018 to 2019, and by 92 percent in January through September 2020 compared to the same period in 2019, since the imposition of preliminary duties on WCV from China in 2019.<sup>10</sup> At the same time, the data indicates that U.S. imports of WCV from Malaysia increased by an enormous 37,623 percent from 2018 to 2019, and by an additional 1,897 percent in January through September 2020 compared to the same period in 2019.<sup>11</sup> Further, Malaysian imports of WCV from China have increased significantly since duties were placed on Chinese

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<sup>3</sup> See 19 USC 1517(e); see also 19 CFR 165.24.

<sup>4</sup> See 19 USC 1517(a)(4); see also 19 CFR 165.1.

<sup>5</sup> See January 5, 2021, email entitled “EAPA Case 7583 Official Receipt – CNC.”

<sup>6</sup> See 19 CFR 165.2.

<sup>7</sup> See “Allegation.”

<sup>8</sup> As a U.S. producer of WCV, the Alleger qualifies as a domestic interested party under 19 CFR 165.1(2), and is authorized to file the allegation according to 19 CFR 165.11(a).

<sup>9</sup> See CBP Memorandum, “Initiation of Investigation for EAPA Case 7583, Wooden Cabinets and Vanities Components and thereof,” dated January 28, 2021.

<sup>10</sup> See Allegation, citing “Malaysian Import Statistics, attached at Exhibit 7. These data include imports under 9403400000 (Wooden Furniture Used In The Kitchen; Wooden Furniture Used In The Kitchen); 940340020 (Wooden Furniture Of A Kind Used In The Kitchen, Not Assembled; Wooden Furniture Of A Kind Used In The Kitchen, Not Assembled); 940340010 (Wooden Furniture Of A Kind Used In The Kitchen, Assembled; Wooden Furniture Of A Kind Used In The Kitchen, Assembled); and 940340000 (Wooden Furniture Used In The Kitchen; Wooden Furniture Used In The Kitchen).”

<sup>11</sup> See *Id.*

WCV, by 307 percent from 2018 to 2019 in terms of value, and by more than 450 percent in January through July 2020 compared to the same period in 2019.<sup>12</sup> See Table 1 for values.

Table 1

Sum of Value (US\$)	2017	2018	2019	Jan-Sep 2019	Jan-Sep 2020
China	1,059,654,040	1,315,097,622	755,909,183	729,565,978	56,653,977
Malaysia	221,107	131,958	49,779,234	12,000,858	239,675,539

Additionally, the alleger provided bill of lading data obtained from [ name ] showing shipments of WCV from the Manufacturer in Malaysia to the Importer. The alleger retained a foreign market researcher (FMR)<sup>13</sup> to investigate, and the FMR conducted on-site visits of the Manufacturer in [ date range ], looking into the Manufacturer’s address listed on [name] manifest data as Lot 8610 Jalan Telok Mengkuan 42500 Telok Panglima Garan Selangor, Malaysia, which revealed an abandoned lot. The FMR next investigated the Manufacturer’s registered business address and found that is it currently the registered address for Zenith Corporate.<sup>14</sup> [ company name ] provided a current address for the Manufacturer, which was Jalan Tampin 73400 Gemas, Negeri Sembilan. [ statement ]<sup>15</sup> After visiting this site, the FMR found that the location was a former plant of an enterprise called Great Platform Sdn. Bhd (“Great Platform”), and that the Manufacturer apparently acquired its assets in early 2020.<sup>16</sup> When the FMR visited, they believed the factory was still under construction and not producing kitchen cabinets at that time.<sup>17</sup>

In addition, the FMR reached out to the Manufacturer’s [ person name ], who stated that the [ statement ] to the United States. Rather, the company exports goods produced by other companies including Chinese companies. In later conversations, [ statement ], leading the FMR to conclude that only [ statement ] is conducted by the Manufacturer.<sup>18</sup>

Finally, [company] identified [ person names ], two of the Manufacturer’s principals as having active connections to Chinese entities engaged in the production of wooden cabinetry. “For example, [ person name, title and company name ] while [ person name, title and

<sup>12</sup> See *Id.*

<sup>13</sup> See Allegation at Exhibit 8 Declaration from [ person name and company name ] (“FMR”).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* See also [ document name ], attached at Exhibit 9.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

company name

]. [ company name

]” the

AD/CVD investigations of WCV.<sup>19</sup>

### *Initiation Assessment*

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.”<sup>20</sup> 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.”<sup>21</sup> Thus, the allegation must reasonably suggest not only that the importer alleged to be evading entered merchandise subject to an AD and/or CVD order into the United States, 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 suggested that the Importer may have engaged in attempts to evade the AD/CVD orders by transshipping Chinese-origin WCV through Malaysia and by failing to declare merchandise as subject to the AD/CVD orders. Specifically, the Allegation submitted documentation reasonably available to it to support these claims, including aggregate Malaysia and U.S. import data, company-specific shipment data sourced from [name], a sworn declaration from an FMR, and trade data showing shipments from [ company name ].

### **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.<sup>22</sup>

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<sup>19</sup> *Id.*

<sup>20</sup> See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

<sup>21</sup> See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

<sup>22</sup> See 19 CFR 165.24(a).

### *CF-28 Response*

On 2/11/2021, CBP issued the CF-28 request for entry summary documents relating to entry numbers [number]7338, [number]3821 and [number]9424 to review and validate the classifications and country of origin. On 3/24/2021, the importer timely submitted CF-28 responses to CBP. The importer submitted CBP Form 7501, CBP Form 3461, commercial invoice, bill of lading, packing list, arrival notice and proof of payment for each entry

Entry number [number]7338 was entered as entry type 01 containing cabinets classified under HTSUS 9403.40.9060 that the Manufacturer exported from Malaysia. CBP noted that CBP Form 7501, CBP Form 3461, commercial invoice, bill of lading, packing list and proof of payment identified the importer and consignees as CNC Cabinetry and Direct Builders Supply located at the same address ([ address ]) from the same Manufacturer/shipper in Malaysia named in the allegation. However, the arrival notice documents indicated a different shipper ([ company name ]) with a notify party email address ([ email ]) in China.<sup>23</sup> The documents also showed that the cabinet hardware and paint drums were from [ company name and country name ], a supplier mentioned in the Allegation.

The entry summary documents for both entry numbers [number]3821 and [number]9424 showed that the cabinets were entered as entry type 01, classified under HTSUS 9403.40.9060 from the Manufacturer in Malaysia. However, both [number]3821 and [number]9424 entry documents included a certificate of origin certified by the Chinese Chamber of Commerce and Industry in Klang, Malaysia and included importer security filing details (“ISF”).<sup>24</sup> The certificate of origin indicated that the product was manufactured in Malaysia. Entry number [number]7338 did not include such a certificate nor did it include the ISF forms, even though the same Importer submitted all three entry packages. Also, the fact that a Chinese Chamber of Commerce made the certification to Malaysian origin is unusual.

### *Cargo Exams*

On March 22, 2021, CBP conducted a cargo exam on the shipment for entry number [number]8025, which originated from the Manufacturer and was purchased by the Importer, to validate the declared merchandise. The exam resulted in the discovery of the failure to mark the WCV with the proper country of origin required by 19 U.S.C. 1304 (Section 304). Consequently, CBP requested a Single Entry Bond (“STB”) to protect the potential loss of the AD/CVD duties. The Importer posted an STB and the WCV was properly marked prior to release. In an effort to further validate the transaction between the Importer and the Manufacturer, CBP conducted a second cargo exam on the shipment for entry number [number]7889) on April 19, 2021, which revealed that the WCV in that entry also was not marked with the proper country of origin. CBP again requested an STB to protect the potential loss of AD/CVD duties, in conjunction with issuing a Marking Notice.<sup>25</sup>

<sup>23</sup> See CF-28 response to entry number [number]7338, Importer, Arrival Notice, dated 3/11/2021.

<sup>24</sup> See CF-28 response to entry numbers [number]3821 and [number]9424, [ company name ] Certification, dated March 24, 2021.

<sup>25</sup> See [ CBP form

Both the CF-28 responses and the cargo exams cast doubt as to the country of origin of the merchandise. The arrival notices for [number]7338 list a notify party in China; these arrival notices do not match the arrival notices provided for entries [number]3821 and [number]9424. The arrival notices appear visibly different in type and amount of content of the document included. The entry documents for [number]3821 and [number]9424, on the other hand, contain a certificate of origin not included in the other entry package, and Chinese Chamber of Commerce and Industry in Malaysia that certified the origin of these goods.

Furthermore, with regard to the cargo exams, both exams undertaken showed that the merchandise was not properly marked with country of origin. While the Importer declared the goods to be of Malaysian origin after being notified by CBP of the missing country of origin markings, because CBP has doubts as to the true origin of the goods and is investigating if the goods came from China, CBP required STBs prior to release of the goods.

Documentation received in response to CF28s, as well as the results of the cargo exam evaluated in combination with the evidence in the Allegation—including the shift in WCV imports from China to Malaysia, the lack of an operating factory for the Manufacturer in Malaysia, and the Importer’s connections to Chinese suppliers, indicate there is reasonable suspicion that the true country of origin for WCV imported by CNC may be China, instead of Malaysia.

#### *Enactment of Interim Measures*

Based on the record evidence, reasonable suspicion exists that the Importer imported WCV into the United States from Malaysia that was, in fact, from China and should have been subject to AD/CVD orders A-570-106 and C-570-107. Therefore, CBP is imposing interim measures on CNC’s imports of WCV into the United States.<sup>26</sup> Specifically, in accordance with 19 USC 1517(e) (1-3), CBP will:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after January 28, 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 the date of the initiation of the investigation on January 28, 2021; 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.<sup>27</sup>

In addition, CBP will require live entry and reject any entry summaries that do not comply with live entry. CBP will also require refile of entries that are within the entry summary rejection period. CBP will also evaluate the Importer’s continuous bonds to determine their sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

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<sup>26</sup> See 19 USC 1517(e); see also 19 CFR 165.24.

<sup>27</sup> See also 19 CFR 165.24(b)(1)(i-iii).

For future submissions or factual information that you submit to CBP pursuant to this EAPA investigation, please provide a public version to CBP and to the parties identified at the top of this notice.<sup>28</sup> Should you have any questions regarding this investigation, you may contact us at [epallegations@cbp.dhs.gov](mailto:epallegations@cbp.dhs.gov) with “EAPA Case 7583” 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>.

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

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<sup>28</sup> See 19 CFR 165.4; *see also* 19 CFR 165.23(c); *see also* 19 CFR 165.26.