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EAPA Case Number 7603

PUBLIC VERSION

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RE: Notice of Determination as to Evasion

To the Counsel and Representatives of the Above-Referenced Entities:

After an examination of the record in Enforce and Protect Act (“EAPA”) Investigation 7603, U.S. Customs and Border Protection (“CBP”) has determined there is substantial evidence that BGI Group Inc. dba U.S. Cabinet Depot (“BGI”) evaded antidumping (“AD”) and countervailing duty (“CVD”) orders A-570-106 and C-570-107, respectively, on wooden cabinets and vanities and components thereof (“WCV”) from the People’s Republic of China (“China”)¹ by entering merchandise covered under those orders into the customs territory of the United States through evasion. Substantial evidence demonstrates that BGI imported Chinese-origin WCV into the United States and misrepresented the country of origin as Vietnam. Specifically, the record of

¹ See *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22126 (U.S. Department of Commerce, Apr. 21, 2020) (“AD Order”) and *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order*, 85 FR 22134 (U.S. Department of Commerce Apr. 21, 2020) (“CVD Order”), 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 9, 2019, the respective publication dates of the affirmative preliminary determinations in the U.S. Department of Commerce investigations. For certain limited periods of time after those dates (*i.e.*, April 6, 2020, through April 16, 2020, for the AD order, and December 10, 2019, through April 16, 2020, for the CVD order), entries were not subject to the orders reflecting the “gap periods” for the underlying Commerce investigations.

the investigation indicates that the U.S. importer's Vietnam supplier imported substantial volumes of wooden furniture components from China suppliers and incorporated them into ready-to-assemble ("RTA") kits that the supplier shipped to the importer. Multiple sources of information, including narrative in submissions made to CBP by the China suppliers themselves, support concluding the imports from China were wooden furniture components. Even if such components originating in China were further processed by the Vietnam supplier prior to their inclusion in the RTA kits, they remain subject to the AD/CVD orders based on the written scope of those orders, but the U.S. importer did not identify any of its entries of such RTA kits as containing subject merchandise. As a result, no cash deposits were applied to the merchandise at the time of entry.

Background

Allegation and Initiation

The American Kitchen Cabinets Alliance ("AKCA") alleged that available information reasonably suggests BGI evaded the AD and CVD orders with respect to Chinese-origin WCV transshipped through Vietnam.² On March 5, 2021, CBP acknowledged receipt of AKCA's properly filed EAPA allegation concerning evasion by BGI.³

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 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 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 declared by BGI at time of entry as a product of Vietnam rather than China.⁵

² 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"). AKCA had filed its original version of the allegation on January 11, 2021, but it submitted the revised version of the allegation in its entirety on February 26, 2021.

³ See March 5, 2021, email from TRLED to counsel for AKCA.

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 *Id.* at 3-4. The [data source] data provide details regarding specific shipments of merchandise imported into and exported from Vietnam. They 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 AKCA stated are wooden cabinet manufacturers. 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.

The Revised Allegation and accompanying affidavit therefore reasonably suggested 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).⁶

Notice of Initiation and Interim Measures

CBP subsequently considered whether reasonable suspicion existed that BGI entered covered merchandise for consumption into the customs territory of the United States through evasion involving HOCA Vietnam. Data reflecting Vietnamese imports from China during the period January 2019 through March 31, 2021, obtained by a CBP attaché from [data source] indicate imports by [company] of [approximate number] pieces of merchandise classified under a Vietnamese tariff number that includes wooden parts.⁷ [company] was [description of company]. Furthermore, the Chinese exporters identified in the [data source] data include, but are not limited to, [description of companies].

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. In its CF28 response, BGI claimed that HOCA Vietnam’s owners [business activity], and that HOCA Vietnam [business activity]. BGI further claimed that [business activity], meaning that [business activity].⁸

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

⁶ *Id.* at 4. Prior to the aforementioned official receipt of allegation and initiation of investigation, during late 2020, officials of a U.S. Government agency visited the facilities of HOCA Vietnam. *See* the June 16, 2021, USG site visit report memorandum (“Site Visit Report”), which contains a site visit report dated December 4, 2020 that references the two visits by officials to the HOCA Vietnam facility. On their second visit, on November 30, 2020, officials of that U.S. Government agency were allowed to interview staff and to tour the facilities. During this second visit, the officials observed the production of WCV parts and viewed packaged kits. *Id.* at 2-6. Staff at the facility indicated that approximately [#] cabinet kits are produced annually. The officials noted they were informed that “all exports are shipped to [number of entities, and countries].” *Id.* at 2.

⁷ *See* the June 15, 2021, Vietnam Import Data Memorandum. *See also* the June 24, 2021, Vietnam tariff code information.

⁸ *See* May 5, 2021, CF28 Response of BGI.

CBP determined that, based on record evidence available to it at the time, there was 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-570-107.⁹ CBP first noted that 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 U.S. Department of Commerce (“Commerce”) 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.¹⁰ CBP also noted that the Vietnamese import data that a CBP attaché obtained from [*data source*] indicate that [*company and business activity*] during the period January 1, 2019, through March 31, 2021, and approximately [*number*] in 2020 alone. CBP concluded that the fact that HOCA Vietnam informed officials of a U.S. Government agency that [*business activity*] 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 question. CBP further noted that although BGI had claimed that parts for the WCV [*business activities*], this explanation was not provided to the officials of a U.S. Government agency during their HOCA Vietnam site visit in November 2020, which occurred [*description of time period*].¹¹

Based on the record evidence referenced in the Initiation and the additional information discussed above and in the NOI (*i.e.*, research and the observations during the second site visit), CBP determined 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 imposed interim measures on BGI’s imports of WCV from Vietnam into the United States pursuant to this investigation.¹²

Requests for Information

After the issuance of the NOI and implementation of interim measures, CBP, pursuant to 19 CFR 165.23, sent Requests for Information (“RFIs”) to BGI and to other interested parties. CBP first issued very brief RFIs to HOCA Vietnam and to a company that BGI had indicated in its CF28 response was part of the production process. CBP asked those parties to identify all their

⁹ See July 1, 2021, Notice of Initiation of Investigation and Interim Measures - EAPA Case 7603 (“NOI”) at 6.

¹⁰ *Id.*

¹¹ *Id.* at 6-7.

¹² See 19 USC 1517(e); see also 19 CFR 165.24.

suppliers of wooden cabinets and/or wooden vanities (whether the wooden cabinets and/or wooden vanities are assembled or packaged in kits), and to identify all their suppliers wooden component parts of cabinets and vanities based on a list of such items described under the scope of the AD/CVD orders (e.g., “wooden cabinet and vanity frames,” “wooden cabinet and vanity boxes (which typically include a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves),” “wooden cabinet or vanity doors,” “wooden cabinet or vanity drawers and drawer components (which typically include sides, backs, bottoms, and faces),” “back panels and end panels,” etc.).¹³

HOCA Vietnam responded that it “purchased certain wooden components from its affiliate PANASIA VIETNAM KITCHEN AND BATH PRODUCTS COMPANY LIMITED (“Panasia Vietnam”) before [date].” HOCA Vietnam stated that after that date, “HOCA Vietnam produced those wooden components under its name by itself, and [

business activities

] to supplemental its production.” In addition, HOCA Vietnam stated it [business activity] for its production of cabinets and vanities, and that “{t}hose purchased parts were in [description of items and business activities

].”¹⁴ HOCA Vietnam

identified the suppliers in question.¹⁵

Panasia Vietnam identified itself publicly as the other company to which CBP had issued an RFI and indicated in its RFI response that it “produced the wooden components and provided them to HOCA Vietnam Kitchen and Bath Products International Co., Ltd [

date and business activity

].” Panasia Vietnam also stated it purchased

[description of items and business activities

¹³ The scope of the AD/CVD orders states that in addition to complete wooden cabinets and vanities, “{s}ubject merchandise includes the following wooden component parts of cabinets and vanities: (1) wooden cabinet and vanity frames (2) wooden cabinet and vanity boxes (which typically include a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves), (3) wooden cabinet or vanity doors, (4) wooden cabinet or vanity drawers and drawer components (which typically include sides, backs, bottoms, and faces), (5) back panels and end panels, (6) and desks, shelves, and tables that are attached to or incorporated in the subject merchandise.” The scope also states “{s}ubject merchandise includes all unassembled, assembled and/or “ready to assemble” (RTA) wooden cabinets and vanities,” and that “RTA wooden cabinets and vanities are defined as cabinets or vanities packaged so that at the time of importation they may include: (1) wooden components required to assemble a cabinet or vanity (including drawer faces and doors); and (2) parts (e.g., screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a cabinet or vanity.” The scope also notes that “{s}ubject merchandise also includes wooden cabinets and vanities and in-scope components that have been further processed in a third country, including but not limited to one or more of the following: trimming, cutting, notching, punching, drilling, painting, staining, finishing, assembly, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope product.” See Revised Allegation at Exhibit 1 and Exhibit 2.

¹⁴ See the July 14, 2021, RFI response of HOCA Vietnam (“HOCA Vietnam initial RFI response”) at 2.

¹⁵ *Id.* at Exhibit 1, referring to [

company names

].

].¹⁶ Panasia Vietnam identified the suppliers in question.¹⁷

Both HOCA Vietnam and Panasia Vietnam stated they did not purchase finished wooden cabinets or wooden vanities (whether assembled or packaged or not).¹⁸

Subsequently, CBP issued an RFI to BGI that asked for information about BGI’s corporate structure and affiliations, accounting and financial practices, and sales-specific order, sales, transport, and product details. CBP also issued a second RFI to HOCA Vietnam, and Panasia Vietnam asking for such information. In addition, CBP issued such RFIs to the additional four Vietnam suppliers and six China suppliers identified in the initial HOCA Vietnam and Panasia Vietnam RFI responses.¹⁹ After being granted extensions to deadlines for filing their responses, the parties submitted their RFI responses, as summarized below:

BGI: submitted on August 16, 2021 (“BGI RFI response”)
HOCA Vietnam: submitted on August 26, 2021 (“HOCA Vietnam RFI response”)
Panasia Vietnam: submitted on August 30, 2021 (“Panasia Vietnam RFI response”)
Additional Supplier 01: submitted on September 1, 2021 (“Additional Supplier 01 RFI response”)
Additional Supplier 02: submitted on September 1, 2021 (“Additional Supplier 02 RFI response”)
Additional Supplier 03: submitted on September 1, 2021 (“Additional Supplier 03 RFI response”)
Additional Supplier 04: submitted on September 1, 2021 (“Additional Supplier 04 RFI response”)
Additional Supplier 05: submitted on August 19, 2021 (“Additional Supplier 05 RFI response”)
Additional Supplier 06: submitted on August 19, 2021 (“Additional Supplier 06 RFI response”)
Additional Supplier 07: submitted on August 19, 2021 (“Additional Supplier 07 RFI response”)

¹⁶ See the July 14, 2021, RFI response of Panasia Vietnam (“Panasia Vietnam initial RFI response”) at 2.

¹⁷ *Id.* at Exhibit 1, referring to the following suppliers: [company names].

¹⁸ See HOCA Vietnam initial RFI response at 1, and Panasia Vietnam initial RFI response at 1, respectively.

¹⁹ The total number of those additional suppliers, and the numbers of those additional suppliers located in Vietnam or China, can be determined from various information compiled from the public versions of HOCA Vietnam initial RFI response, Panasia Vietnam initial RFI response, the subsequent RFI responses of those two companies, and the assorted RFI extension requests submitted by the additional suppliers. The ten additional suppliers, their country of location, and the products supplied by them as identified in HOCA Vietnam initial RFI response at Exhibit 1 and Panasia Vietnam initial RFI response at Exhibit 1, are summarized below (henceforward, the additional suppliers will be referenced by their public numeric designations):

Country: Vietnam

	<u>Company Name</u>	<u>Products</u>
Additional Supplier 01: []
Additional Supplier 02: []
	[]
Additional Supplier 03: []
Additional Supplier 04: []
	[]

Country: People’s Republic of China

	<u>Company Name</u>	<u>Products</u>
Additional Supplier 05: []
Additional Supplier 06: []
Additional Supplier 07: []
Additional Supplier 08: []
Additional Supplier 09: []
Additional Supplier 10: []

Additional Supplier 08: submitted on August 19, 2021 (“Additional Supplier 08 RFI response”)
Additional Supplier 09: submitted on August 19, 2021 (“Additional Supplier 09 RFI response”)
Additional Supplier 10: submitted on August 19, 2021 (“Additional Supplier 10 RFI response”)

CBP issued supplemental RFIs to each of those thirteen companies. After being granted extensions to deadlines for filing their responses, the parties submitted their supplemental RFI responses, as summarized below:

BGI: submitted on October 18, 2021 (“BGI supp RFI response”)
HOCA Vietnam: submitted on October 27, 2021 (“HOCA Vietnam supp RFI response”)²⁰
Panasia Vietnam: submitted on October 27, 2021 (“Panasia Vietnam supp RFI response”)
Additional Supplier 01: submitted on October 28, 2021 (“Additional Supplier 01 supp RFI response”)
Additional Supplier 02: submitted on October 28, 2021 (“Additional Supplier 02 supp RFI response”)
Additional Supplier 03: submitted on October 28, 2021 (“Additional Supplier 03 supp RFI response”)
Additional Supplier 04: submitted on October 28, 2021 (“Additional Supplier 04 supp RFI response”)
Additional Supplier 05: submitted on October 26, 2021 (“Additional Supplier 05 supp RFI response”)
Additional Supplier 06: submitted on October 26, 2021 (“Additional Supplier 06 supp RFI response”)
Additional Supplier 07: submitted on October 26, 2021 (“Additional Supplier 07 supp RFI response”)
Additional Supplier 08: submitted on October 26, 2021 (“Additional Supplier 08 supp RFI response”)
Additional Supplier 09: submitted on October 26, 2021 (“Additional Supplier 09 supp RFI response”)
Additional Supplier 10: submitted on October 26, 2021 (“Additional Supplier 10 supp RFI response”)

BGI stated in its RFI response that it “cannot identify the U.S. customers for the merchandise imported on the {sample} entries” identified by CBP in the RFI because “BGI’s system does not trace POs to downstream U.S. sales orders.”²¹ BGI stated that it “cannot identify the U.S. customers for the merchandise imported on the entries listed in the Appendix” in the RFI, and that “{t}his is standard inventory and sales and accounting practice for a company that is not offering a highly customized product to its customer base, in which case, the importer may not be able to track subject merchandise one for one from the ocean container / entry down to the US downstream customer.”²² BGI reiterated this point in its supplemental RFI response, stating that “{a}fter importation, BGI puts WCV products into integrated inventory and it is unable to tie specific shipments to downstream U.S. sales of WCV.”²³ In addition, BGI notes that it is not able to link particular U.S. customer sales back to the specific foreign supplier, “because BGI’s ERP system does not track merchandise from specific shipments into U.S. to specific downstream U.S. sales, BGI can only report downstream U.S. Q&V of all WCV Products,” and “BGI’s educated guess is that [# range]% of the WCV Products sold during the POI came from HOCA Vietnam.”²⁴

²⁰ HOCA Vietnam was required to provide additional English translation information related to this response. *See* the November 15, 2021, revised supplemental RFI translation submission by HOCA Vietnam (“HOCA Vietnam Translation Submission”).

²¹ *See* BGI RFI response at 20.

²² *Id.*

²³ *See e.g.* BGI supp RFI response at 6.

²⁴ *See* BGI supp RFI response at 17.

HOCA Vietnam’s RFI and Supplemental RFI indicate it had production capacity for the various stages of production of the parts that comprise the WCV kits it exported to the United States.²⁵ HOCA Vietnam also indicates in those responses that it produced such parts.²⁶ HOCA Vietnam indicated that during the period March 2020 through June 2021, it sold [#] RTA cabinet kits and [#] individual parts to the U.S. market, and [# and items/description] during the same period.²⁷

HOCA Vietnam stated that it “uses solid wood lumber board, plywood, MDF, paint, and hardware as major materials in the production of WCV products.”²⁸ HOCA Vietnam’s RFI and supplemental RFI responses acknowledge, as do the RFI and supplemental RFI responses of Panasia Vietnam and the ten additional suppliers, that HOCA Vietnam was supplied by those other eleven companies with items other than those “major materials.” HOCA Vietnam characterized those other items as “solid wood parts”²⁹ and as “[items].”³⁰

HOCA Vietnam stated that it “imported certain [items] from China, as well as purchased from Vietnam local suppliers, then further processed them substantially, *i.e.* [processes] in its woodwork workshop.” It also stated it “completed the painting processing, *i.e.* [processes] in its painting workshop, and then produced these items into wooden parts or components of doors/frames/drawers,” and, finally, “packed them together with plywood cabinet box components as well as hardware as the completed WCVs products in its normal business operations.” HOCA Vietnam concluded “those [items] as purchased could not be direct components or parts but needed further substantial processing before they could be considered completed components of WCV products.”³¹

In addition to not being completed components of WCV products, HOCA Vietnam claimed that the “[items]” are not subject merchandise. HOCA Vietnam explained that those “[items]” were “entered into the [location]”

²⁵ See *e.g.* HOCA Vietnam RFI response at 17-19. HOCA Vietnam concluded by providing an estimate of its monthly production capacity as [#] “sets of standard WCV products.” *Id.* at 19. In its supplemental RFI response, HOCA estimated its quarterly production capacity as about [# range and time period] and about [# range and time period]

[# range and time period]. See HOCA Vietnam supp RFI Response at 10 and Exhibit SQ1-5. With regard to actual production, during the site visit in late 2020, HOCA Vietnam indicated that “{a}pproximately [#] cabinet kits are produced annually.” See Site Visit Report at 2.

BGI stated that it “in 2019, the owner of Hangzhou HOCA informed BGI that they were building a new factory HOCA Vietnam,” that “Steven Xu and BGI’s overseas General Manager [person] attended HOCA Vietnam’s opening ceremony and toured the factory,” and that, “{a}s such, BGI confirmed that the production facility and equipment, as well as the production process, were capable of producing WCV at HOCA Vietnam’s factory in sufficient capacity before BGI formally initiated the business relationship HOCA Vietnam.” See BGI RFI response at 25.

²⁶ See *e.g.* HOCA Vietnam RFI response at 25-26.

²⁷ See HOCA Vietnam supp RFI response at 17 and Exhibit SQ1-10.

²⁸ See HOCA Vietnam RFI response at 27.

²⁹ See *e.g.* HOCA Vietnam RFI response at 3 and 6.

³⁰ See *e.g.* HOCA Vietnam RFI response at 7.

³¹ See HOCA Vietnam RFI response at 8. HOCA Vietnam also stated it stopped importing “[items]” from China after May 2021. *Id.* at 9.

by HOCA Vietnam, as [items], although the purchased invoices reported as [items] roughly, and then those [items] were sent out for the further production, such as [processes] in the woodwork workshop, as the warehouse out tickets and the woodwork warehouse production report indicate.” HOCA Vietnam continued that “the wooden components went through the painting workshop and packing workshop to become RTA WCV products,” meaning “those [items] were indeed input materials for the production of WCV RTA products, rather than direct parts or components thereof for the WCV RTA products.” Therefore, HOCA Vietnam concluded, “the purchased [items] were not direct covered merchandise.”³²

In its supplemental RFI response, HOCA Vietnam described the “[items]” as raw materials. Specifically, it stated it “considers the products sold were produced by itself, because for the [items], they were raw materials (or at most, [description] raw materials) purchased by HOCA Vietnam.”³³ HOCA Vietnam had stated in its RFI response that it “considers solid wood lumber board, plywood and MDF as the three most important direct materials because the WCV products are produced from these wood materials,”³⁴ and when providing sample purchase documents for raw materials, only provided such documents for surface lumber, plywood, and MDF.³⁵ In addition, HOCA Vietnam clarified that the general term “[items]” refers to “[items]”.³⁶

HOCA Vietnam stated that in contrast to the “[items], its “{p}urchases from Panasia Vietnam were finished wooden parts or components to be directly packed with plywood cabinet box parts,” and that it made “purchases from Additional Supplier 03,” a Vietnam supplier, that “were [items] but were also [items, description, and business activities].” HOCA Vietnam stated it “considers such RTA cabinets as its own products.”³⁷

³² *Id.* at 8-9.

³³ See HOCA Vietnam supp RFI response at 14. Elsewhere in that response, HOCA Vietnam referred to such “[items]” when noting that one of the additional suppliers, [company], was “at most...involved in the supply of [description] raw materials of covered merchandise.” *Id.* at 2.

³⁴ See HOCA Vietnam RFI response at 27.

³⁵ *Id.* at 32 and Exhibits 34, 35, 36, and 37. While in Exhibit 33 of its RFI response HOCA Vietnam refers to various “[item]” products, as well as surface lumber, plywood, and MDF, as “raw material,” it appears that HOCA Vietnam does not consider “[items]” to be raw materials in all contexts. For example, HOCA Vietnam stated that it had provided in Exhibits 34, 35, 36, and 37 of its RFI response “all the documents it had in its possession for the raw material purchases” associated with the sample shipments to BGI identified in Appendix I of the RFI, even though “the sales as listed in Appendix I did contain [items] for Chinese suppliers and [items] from Vietnamese suppliers.” See HOCA Vietnam supp RFI response at 19.

³⁶ See HOCA Vietnam supp RFI response at 15.

³⁷ *Id.* at 15.

In their RFI and supplemental RFI responses, the six additional suppliers located in China (*i.e.*, Additional Supplier 05, Additional Supplier 06, Additional Supplier 07, Additional Supplier 08, Additional Supplier 09, and Additional Supplier 10) referenced the items they supplied to HOCA Vietnam. Data provided in the RFI responses of those six China suppliers indicate they supplied over [#] million such pieces during the inquiry period.³⁸ Excluding the subtotal for [company and business activity], the number of pieces was approximately [#] million.³⁹

Additional Supplier 05 described its sales to HOCA Vietnam as follows: “Regarding Hoca Vietnam, Supplier 05 sold only [items] to Hoca Vietnam, which represented around [share] of the total production,” and “{t}he semi-finished products sold to Hoca Vietnam were not direct components of wooden cabinets, but required substantial further processing, *i.e.* [processes] by Hoca Vietnam.”⁴⁰ Additional Supplier 05 also described the products it sold to HOCA Vietnam as “[items].”⁴¹ In its supplemental RFI response, Additional Supplier 05 stated that it “sold [items] to HOCA Vietnam which were produced from the common raw material (*i.e.* MDF and surfaced lumber) by Additional Supplier 05.”⁴² Additional Supplier 05 referred to some of the products sold to HOCA Vietnam as “[items],”⁴³ and referred to the products in general as “[items],”⁴⁴ and as “[items].”⁴⁵ However, Additional Supplier 05 concluded by stating that “{a}t best, Additional Supplier 05 sold [description] raw materials of covered merchandise to HOCA Vietnam.”⁴⁶

Additional Supplier 06 described its sales to HOCA Vietnam as follows: “Supplier 06 or Affiliated Producer sold only certain [items] to HOCA Vietnam, which represented around [share] of the total production in the inquiry period,”⁴⁷ and described them as “[items].”⁴⁸ In its supplemental RFI response, Additional Supplier 06 stated it “sold [items] to HOCA Vietnam which were produced from the common raw material

³⁸ See Additional Supplier 05 RFI response at 6, Additional Supplier 06 RFI response at 6, Additional Supplier 07 RFI response at 6, Additional Supplier 08 RFI response at 6, Additional Supplier 09 RFI response at 6 and Exhibit 7, and Additional Supplier 10 RFI response at 6. Excluding the subtotal for [company and description

], the number of pieces was approximately [#] million.

³⁹ *Id.*

⁴⁰ See Additional Supplier 05 RFI response at 4.

⁴¹ *Id.* at 6.

⁴² See Additional Supplier 05 supp RFI response at 2-3.

⁴³ *Id.* at 5.

⁴⁴ *Id.* at 6.

⁴⁵ *Id.* at 8.

⁴⁶ *Id.* at 10.

⁴⁷ See Additional Supplier 06 RFI response at 4-5.

⁴⁸ *Id.* at 6.

(i.e. MDF and surfaced lumber) by Additional Supplier 06,”⁴⁹ and later stated the products it “sold to HOCA Vietnam include [items].”⁵⁰ Discussing products related to particular invoices that it issued to HOCA Vietnam, Additional Supplier 06 referred to products such as “[items]” and “[items]” and “[items].”⁵¹ Returning to general discussion of products, Additional Supplier 06 referenced the products as “[items].”⁵² Additional Supplier 06 opined that the products it sells HOCA Vietnam are not subject to the AD/CVD orders because “{t}he [items] Additional Supplier 06 sold to HOCA VN are not WCV nor finished WCV parts,” and that, “{a}t best, Additional Supplier 06 sold [description] raw materials of covered merchandise to HOCA Vietnam.”⁵³

Additional Supplier 07 described its sales to HOCA Vietnam as follows: “Supplier 07 produces and sells wooden furniture and also certain [items] as required by the Customer,” and “Supplier 07 produced and sold certain [items] to HOCA Vietnam during the inquiry period.”⁵⁴ Additional Supplier 07 also described the products it sold to HOCA Vietnam as “[items].”⁵⁵ In its supplemental RFI response, Additional Supplier 07 stated it “only supplied [items] to HOCA Vietnam in [time period], totaling [#] transactions.”⁵⁶ Additional Supplier 07 stated it “sold [items] to HOCA Vietnam which were produced from the common raw material (i.e. MDF and surfaced lumber) by Additional Supplier 07.”⁵⁷ When referring to a particular invoice it issued to HOCA Vietnam, Additional Supplier 07 referred to the products referenced as “[items]” and noted “that on the invoices, normally [items and business activity], and that “{d}rawer faces are actually considered in a sense smaller-size doors.”⁵⁸ Discussing the products it sells to HOCA Vietnam more generally, it referenced them as “[items],”⁵⁹ and then as “[items].”⁶⁰ Additional Supplier 07 opines that the merchandise it sells to HOCA Vietnam is not subject to the AD/CVD orders because “{t}he [items] Additional Supplier 07 sold to HOCA VN are not

⁴⁹ See Additional Supplier 06 supp RFI response at 3.

⁵⁰ *Id.* at 5.

⁵¹ *Id.* at 5-6.

⁵² *Id.* at 8.

⁵³ *Id.* at 10.

⁵⁴ See Additional Supplier 07 RFI response at 4.

⁵⁵ *Id.* at 6.

⁵⁶ See Additional Supplier 07 supp RFI response at 1.

⁵⁷ *Id.* at 2-3.

⁵⁸ *Id.* at 5.

⁵⁹ *Id.*

⁶⁰ *Id.* at 7.

WCV nor finished WCV parts,” and that “{a}t best, Additional Supplier 07 sold [description] raw materials of covered merchandise to HOCA Vietnam.”⁶¹

Additional Supplier 08 described its sales to HOCA Vietnam as follows: “Supplier 08 produced wooden cabinet/vanities and components thereof,” and “{i}n the Inquiry period, the company produced and sold certain [items] as requested by Hoca Vietnam, but they were in semi-finished forms that could not be direct components and required further substantial processing to be incorporated into the wooden RTA cabinets.”⁶²

Additional Supplier 08 also described some of the products it sold to HOCA Vietnam as “[items].”⁶³ In its supplemental RFI response, Additional Supplier 08 stated it “only supplied [items] to HOCA Vietnam in [date].”⁶⁴ Additional Supplier 08 stated it “sold [items] to HOCA Vietnam which were produced from the common raw material (*i.e.* MDF and surfaced lumber) by Additional Supplier 08.”⁶⁵ When summarizing all the products it sold to HOCA Vietnam, Additional Supplier 08 referred to a list identifying the following: [items]

[items].⁶⁶ Later in that response, Additional Supplier 08 referred to the “[item]” products it sold to HOCA Vietnam as “[items].”⁶⁷ Additional Supplier 08 opines that those products are not subject to the AD/CVD orders because “{t}he [items] Additional Supplier 08 sold to HOCA VN are not WCV nor finished WCV parts,” and that “{a}t best, Additional Supplier 08 sold [description] raw materials of covered merchandise to HOCA Vietnam.”⁶⁸

Additional Supplier 09 identifies the products it sells as the following: [items]

[items].⁶⁹ Additional Supplier 09 describes the products it sold to HOCA Vietnam as “[items], which it states it produced by first using “saws to [processes]

[processes] as required by HOCA Vietnam in the normal course of operations.”⁷⁰ Additional Supplier 09 states “{t}hese semi-finished boards need substantial further processing by Hoca Vietnam, such as [processes] to manufacture components of the wooden WCV products.”⁷¹ Additional Supplier 09 states that for sample documentation, “the production records {indicate} the products were [items], although [items and description of activity]

⁶¹ *Id.* at 9.

⁶² See Additional Supplier 08 RFI response at 4.

⁶³ *Id.* at 6.

⁶⁴ See Additional Supplier 08 supp RFI response at 1.

⁶⁵ *Id.* at 3.

⁶⁶ *Id.* at 5 and Exhibit SQ1-2.

⁶⁷ *Id.* at 7.

⁶⁸ *Id.* at 15.

⁶⁹ See Additional Supplier 09 RFI response at 5 and Exhibit 2.

⁷⁰ See Additional Supplier 09 RFI response at 5.

⁷¹ *Id.*

] in the commercial invoice.”⁷² In its supplemental RFI response, Additional Supplier 09 stated that it “sold [items] to HOCA Vietnam which were produced from the common raw material (*i.e.* solid wood lumber and MDF) by Additional Supplier 09.”⁷³ When referencing specific invoices issued by Additional Supplier 09 to HOCA Vietnam, Additional Supplier 09 referred to the products involved as “[items]” and “[items],” the latter “[business activity]” though Additional Supplier 09 states “{d}rawer faces are actually considered in a sense smaller-size doors.”⁷⁴ Additional Supplier 09 opines that “the [items] it sold to HOCA Vietnam” are not covered by the AD/CVD orders because those orders only include “WCV and parts thereof,” and “{t}he [items] Additional Supplier 09 sold to HOCA Vietnam are not WCV nor finished WCV parts.”⁷⁵ Additional Supplier 09 states that “{a}t best, Additional Supplier 09 sold [description] raw materials of covered merchandise to HOCA Vietnam.”⁷⁶

Additional Supplier 10 described its sales to HOCA Vietnam as follows: “Supplier 10 produces and sells [items] and wooden cabinets in its normal business operations,” and “Supplier 10 sold [items] to HOCA Vietnam during the inquiry period.” Additional Supplier 10 stated that “[items] is the raw material for the production of wooden cabinets, and those [items] were in semi-finished form and not usable as direct components but require substantial further processing by Hoca Vietnam to become components of the wooden RTA.”⁷⁷ Additional Supplier 10 also stated that in addition to the aforementioned “raw material,” it also sold “[items] to HOCA Vietnam during the inquiry period.”⁷⁸ In its supplemental RFI response, Additional Supplier 10 stated it “sold [items] to HOCA Vietnam which were produced from the common raw material (*i.e.* finger-jointed lumber) by Additional Supplier 10.”⁷⁹ However, although Additional Supplier 10 did not provide English translations of all of its sales documentation, some such documentation it provided related to its sales to HOCA Vietnam (*e.g.*, “purchase order” and “bill of lading”) include wood component terms such as “[item],” “[item],” and “[item].”⁸⁰ Similar terms referencing “[items]” also appears in the list of products Additional Supplier indicates it sold to HOCA Vietnam.⁸¹

[company and description] as a supplier of HTS 94039090 merchandise to HOCA Vietnam.⁸² Furthermore, the Customs Declaration documents provided by HOCA Vietnam [company

⁷² *Id.* at 8.

⁷³ See Additional Supplier 09 supp RFI response at 1.

⁷⁴ *Id.* at 4.

⁷⁵ *Id.* at 9.

⁷⁶ *Id.* at 10.

⁷⁷ See Additional Supplier 10 RFI response at 4-5.

⁷⁸ *Id.* at 6.

⁷⁹ See Additional Supplier 10 supp RFI response at 2.

⁸⁰ *Id.* at Exhibit SQ1-1.

⁸¹ *Id.* at Exhibit SQ1-2.

⁸² See Vietnam Import Data Memorandum.

[redacted] reference HTS numbers other than 94039090.⁸³ This is in contrast to [redacted companies], which accounted for the approximately [redacted #] million pieces identified in the [redacted information and source],⁸⁴ and for whom [redacted numeric description] of the Customs Declaration documents provided by HOCA Vietnam reference HTS 94039090.⁸⁵

HOCA Vietnam submitted photographs of what it stated were examples of the “[redacted items]” that HOCA Vietnam obtains from Vietnam and China suppliers, as well as photographs of “finished components of WCV products.”⁸⁶ HOCA Vietnam stated “[redacted {t}hose items] were substantially different from finished components of WCV products,” in that “[redacted {t}hey need substantial processing by HOCA Vietnam and/or Panasia Vietnam in normal business operations.”⁸⁷ Additional Supplier 09 provided what it referred to as “pictures of the [redacted items] supplied to HOCA Vietnam,” stating the pictures “show the [redacted description] nature of the materials.”⁸⁸

HOCA Vietnam provided data that it states demonstrates the imported [redacted items] accounted for a small portion of the total cost of WCV products, and that this percentage decreased in the inquiry period as HOCA Vietnam.⁸⁹ HOCA Vietnam provided the following data in an exhibit entitled “Summary of the Quarterly Proportions of Imported Materials over Total Cost of Manufacturing and Sales Revenue”⁹⁰:

Accounting Month	Value of Imported [redacted item] (VND)	Total Cost of Manufacturing (VND)	Percentage	Total Sales Revenue (VND)	Percentage
2020 Q2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2020 Q3	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2020 Q4	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2021 Q1	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
2021 Q2	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

⁸³ See HOCA Vietnam supp RFI response at [redacted document]. However, the HTS number referenced on [redacted description] Vietnam Customs Declaration documents [redacted item and company] is [redacted tariff #], which is not one of the HTS numbers in Chapter 44 identified by BGI in a later submission (see below) as the ones under which BGI claims the “[redacted items]” it imported from its China suppliers should have been classified. Furthermore, the Vietnam Customs Declaration documents in Exhibit SQ1-7.10 contain references to furniture components such as [redacted items] and “[redacted item].” See HOCA Vietnam Translation Submission at Exhibit SQ2-1.

⁸⁴ See Vietnam Import Data Memorandum.

⁸⁵ See HOCA Vietnam supp RFI response at [redacted documents] (note that given the overall volume of imports by HOCA Vietnam from Additional Supplier 09, it is evident that HOCA Vietnam only provided in Exhibit SQ1-7.9 Customs Declaration documents accounting for a small percentage of the overall shipments from that supplier to HOCA Vietnam). The English translations of the product description lines of the numerous Vietnam Customs Declaration documents provided by HOCA Vietnam in those exhibits all reference furniture parts/components, and do not refer to them as “[redacted description]” or even as “[redacted description].” See HOCA Vietnam Translation Submission at 1-2 and Exhibit SQ2-1.

⁸⁶ See HOCA Vietnam RFI response at 7 and Exhibit 05.

⁸⁷ See HOCA Vietnam RFI response at 7.

⁸⁸ See Additional Supplier 09 RFI response at 8 and Exhibit 12.

⁸⁹ See HOCA Vietnam RFI response at 9.

⁹⁰ See HOCA Vietnam RFI response at Exhibit 7.

HOCA Vietnam stated that those data indicate “HOCA Vietnam produced the WCV products substantially in Vietnam, although its production involved [items] from China in the inquiry period, and those [items] were indeed part of the materials for the production of completed WCV RTA products.”⁹¹

With regard to tying HOCA Vietnam’s purchases of “[items]” to specific WCV shipped to BGI, HOCA Vietnam clarified in its supplemental RFI response that it is unable to do so, given the complexities of the purchasing and shipment processes. Specifically, HOCA Vietnam stated “the sales included in Appendix I {of the RFI issued to HOCA Vietnam, identifying particular shipments to BGI} included products under multiple BGI purchase orders and the products under each purchase order might be shipped in multiple shipments,” and, “{t}herefore, it is difficult to reconcile the quantity in a shipment to BGI to the quantity in a PO that HOCA Vietnam placed with its supplier, and to the quantity in a shipment/invoice from the supplier, because each party may break a PO in multiple shipments.” Furthermore, HOCA Vietnam noted, “each shipment may contain products under multiple purchase orders, so to completely cross match the products ordered/shipped in one sale would be extremely burdensome, if not impossible.”⁹²

Alleged New Factual Information and Importer Rebuttal Information

On October 12, 2021, AKCA submitted what it characterized as new factual information (“AKCA NFI”). AKCA’s submission contained information in four exhibits. Exhibit 1 contains an affidavit from an industry official discussing stages of cabinet production and analyzing the public version of the Site Visit Report. In that affidavit, the industry official claims “60% of the total value of a complete cabinet is represented by the cabinet doors and drawers,” and that “{t}he typical rule of thumb holds that the doors, drawer fronts, and frames comprise 2/3 of the value and even more of the value add {sic} of a complete cabinet.”⁹³ The official states that the Site Visit Report “never mentions cabinet doors or drawers.”⁹⁴ Exhibit 2 of AKCA NFI contains a list of what AKCA characterized as companies in Vietnam companies that imported furniture parts under 9403.9090 of the Vietnam Harmonized Tariff Schedule from April 2020 through November 2020, the suppliers of the furniture parts in question, and the quantity and value of furniture parts imported from each supplier during the time period. Exhibit 3 of AKCA NFI contains excerpts from the Vietnamese Harmonized Tariff Schedule for the codes under which raw wood materials and furniture parts are imported into Vietnam, which AKCA notes is relevant because it shows which codes are used for importation of raw materials such as wooden boards as opposed to furniture parts such as wooden cabinet components. Exhibit 4 of AKCA NFI contains a brochure published by the BGI Group Inc., doing business as U.S. Cabinet Depot regarding the various styles and dimensions of the cabinets that it sells within the United States.

On October 22, 2021, BGI submitted rebuttal information in response to the AKCA NFI submission (“BGI Rebuttal Info”). BGI provided in Exhibit 1 of that submission a declaration from a HOCA Vietnam official who, according to BGI, supervises HOCA Vietnam’s cabinets

⁹¹ See HOCA Vietnam RFI response at 9.

⁹² See HOCA Vietnam supp RFI response at 20.

⁹³ See AKCA NFI at Exhibit 1.

⁹⁴ *Id.*

production as rebuttal factual information to AKCA’s declaration.⁹⁵ In that declaration, the official states that for the typical product, the “three-piece (*i.e.*, door and drawer face [process], and front frame [process]) accounts for approximately [# range]% of the value, not anywhere near 66%” claimed in the AKCA declaration, and that “{f} or the rest {sic} components, the [item] drawer boxes would account for [# range]% of the value; the [item] cabinet box (carcass) would account for about [# range]% of the value; the hardware would account for [# range]% of the value, and the packing materials would account for [# range]% of the value.”⁹⁶ The official states that “{t}he labor and overhead costs have been taken into consideration in the above-listed percentages.”⁹⁷

Regarding HOCA Vietnam production capabilities, BGI states that, contrary to AKCA’s assumptions regarding CBP’s December 4, 2020, site visit report, Exhibit 1 of BGI Rebuttal Info and the annotated HOCA Vietnam Machine List included within that exhibit “shows that HOCA Vietnam has the machinery to produce three-piece components on-site and it was producing three-piece components on the day” of the site visit.⁹⁸ BGI concludes by claiming that “{o}ther record evidence also unequivocally demonstrates that HOCA Vietnam sourced upstream raw materials from various domestic and foreign sources at cheaper prices and performed significant work on them to convert them to three-piece components,” which contributes to rendering the comparative value of three-piece components in Alleger’s declaration “inapposite or at best grossly exaggerated.”⁹⁹

TRLED New Factual Information and Importer Rebuttal Information

On November 1, 2021, TRLED placed new factual information on the record in the form of a memorandum.¹⁰⁰ Attachment 1 to this memorandum contains emails provided by a CBP attaché that contain information obtained by the attaché from [source] indicating HOCA Kitchen Hygiene International Co. Ltd.¹⁰¹ had misclassified products and misidentified country of origin for certain merchandise. [source] indicated the company “[

description of findings

[]” [source] noted that [quantitative summary of some findings].¹⁰²

⁹⁵ See BGI Rebuttal Info at 1-2 and Exhibit 1.

⁹⁶ See BGI Rebuttal Info at Exhibit 1 (points 4 and 6).

⁹⁷ See BGI Rebuttal Info at Exhibit 1 (point 6).

⁹⁸ See BGI Rebuttal Info at 2 and Exhibit 1.

⁹⁹ See BGI Rebuttal Info at 2.

¹⁰⁰ See November 1, 2021, TRLED New Factual Information Memorandum (“TRLED NFI Memo”).

¹⁰¹ As noted in the memorandum, HOCA Vietnam, on page 7 of the HOCA Vietnam RFI response, indicated it believes HOCA Kitchen Hygiene International Co. Ltd. is a “different translation { } of HOCA Vietnam’s name in Vietnamese.”

¹⁰² See TRLED NFI Memo.

On November 12, 2021, BGI submitted rebuttal information to TRLED NFI Memo.¹⁰³ BGI states that “TRLED’s Memo is heavily bracketed and prevented BGI from being able to meaningfully evaluate the content of the email and the relevance of the email, and to provide a meaningful rebuttal to the email should it contain any information that can be used against BGI.”¹⁰⁴ BGI states that “HOCA Vietnam should have been provided the opportunity to review its own business confidential information and provide clarification or rebuttal information through BGI, who is a party to the investigation,” but, in any case, that BGI had “consulted HOCA Vietnam in preparing” its rebuttal to TRLED NFI Memo.¹⁰⁵

With regard to TRLED NFI Memo, BGI states it “suspects that is related to HOCA Vietnam’s imports of [items] from China,” and notes that HOCA Vietnam informed BGI “that [entities and business activities

].” BGI claims “{t}his happened because [entity and business activity

],” while, “{i}n practice, when [company and business activity

].” BGI now claims that [description of product terminology

].” BGI states that “{a}fter production is finished and the goods are packed, the Chinese supplier issued itemized invoice with corresponding container number, and [description of product terminology usage

].” BGI states “{t}he supplier also issued HOCA Vietnam a simplified one-page commercial invoice and one-page packing list for Vietnamese customs declaration purposes,” and “{t}he supplier [description of product terminology usage

] because these are simplified documents.” BGI states “{t}here are also Chinese suppliers who only issued one version of invoice and packing list, without refer to the products as [description],” but that “even in this instance, TRLED can still trace the products back to HOCA Vietnam’s purchase order...and understand that HOCA Vietnam only [activity and items].”¹⁰⁶

¹⁰³ See November 12, 2021, BGI rebuttal to TRLED NFI Memo (“BGI Memo Rebuttal”).

¹⁰⁴ *Id.* at 2.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 2-4. Subsequently, HOCA Vietnam also noted that the Chinese characters referenced above literally mean “[item].” HOCA Vietnam references an example of a product description containing Chinese characters translated to “[item],” followed by the aforementioned Chinese characters translated to “[item],” followed by Vietnamese words translated to “[item].” HOCA Vietnam states the entire “[item]” expression can collectively be translated to mean “[item].” See HOCA Vietnam Translation Submission at 2-3.

Regarding the “[items],” BGI notes, “[entities and activities],” and the “[entities and activities],”

.” BGI states that “{n}otwithstanding the customs paperwork, the fact that HOCA Vietnam ordered and received only [items] are further corroborated by HOCA Vietnam’s warehouse-in tickets.” BGI concludes that it “believes that the [items] HOCA Vietnam purchased should have been properly classified under 4407 if the product is made from wood lumber, and under 4411 if the product is made from MDF [activity and location].”¹⁰⁷ BGI states “{t}he [items and description] wood lumber and MDF,” as borne out by comparison of “photos of [items] and finished cabinets components” that appear in Exhibit 5 of the HOCA Vietnam RFI response. BGI states it does not believe that this is a misclassification error caused by HOCA Vietnam or HOCA Vietnam’s local customs brokers,” but, rather, “it resulted from an [business activities of entities].”¹⁰⁸

Finally, BGI states that based on the TRLED NFI Memo conclusion that HOCA Vietnam had misidentified the country of origin of some merchandise, BGI “surmises that the CBP Attaché believed that HOCA Vietnam should have identified the WCV it exported to the U.S. as products of China because HOCA Vietnam imported [items] and BGI imported WCVs from HOCA Vietnam under HTS 9403.40, with no change to the HTS on [description].” However, as noted above, BGI believes “the [items] HOCA Vietnam imported from China should have been properly classified under HTS Chapter 44,” and “because the [items] are substantially transformed into WCVs in Vietnam as WCVs, BGI correctly identified the origin of WCVs from HOCA Vietnam as products of Vietnam.”¹⁰⁹

¹⁰⁷ See BGI Memo Rebuttal at 4. BGI submitted tariff classification information relating to Chapter 44 of Vietnam tariff codes. *Id.* at Exhibit 1.

¹⁰⁸ *Id.* at 4.

¹⁰⁹ *Id.* at 4-5. The HTS numbers identified on Vietnam Customs declaration forms for [companies]

[], with the exception of [objects] involving [company], are HTS numbers in chapter 94, while the HTS numbers identified for [company] are ones in chapter 44. See HOCA Vietnam supp RFI response at Exhibit SQ1-7.5, Exhibit SQ1-7.6, Exhibit SQ1-7.7, Exhibit SQ1-7.8, Exhibit SQ1-7.9, and Exhibit SQ1-7.10. The [objects] are in chapter 44. *Id.* at [specific document] (pages [page numbers] of the overall submission. Based on HOCA Vietnam’s English translations, the written descriptions of the merchandise on the Vietnam Customs declaration forms in question [companies] do not refer to phrases such as “[description]” or “[description].” Rather, the English translations provided by HOCA Vietnam describe the products as [items] or, in the case of the [objects and items]. See HOCA Vietnam

Translation Submission at Exhibit SQ2-1.

Written Argument and Rebuttal to Written Argument

On November 5, 2021, TRLED suspended the deadline for parties to the investigation to submit written arguments, and on November 19, 2021, TRLED established new deadlines for parties to the investigation to submit written arguments and responses to written arguments.¹¹⁰ On December 1, 2021, BGI submitted written arguments, and on December 13, 2021, AKCA submitted response to written arguments.¹¹¹

Analysis

Under 19 USC 1517(c)(1)(A), to reach a determination as to evasion, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.” 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 merchandise.”¹¹² As discussed below, the record of this investigation contains substantial evidence supporting a determination that covered merchandise entered the United States through evasion, resulting in the avoidance of applicable AD/CVD deposits or other security.

Subsequent to its issuance of the NOI, CBP obtained additional evidence, as referenced above, that Chinese furniture components were shipped by HOCA Vietnam to BGI, which BGI classifies as of Vietnam origin:

- In response to the brief initial RFI request that HOCA Vietnam identify its suppliers of furniture components, HOCA Vietnam identified Chinese suppliers from which it obtained “[items].”¹¹³
- Of those Chinese suppliers, Additional Suppliers 05, 06, 07, 08, and 09 indicated they supplied those products to HOCA Vietnam, using the very same component terms (e.g., [items]) in their RFI narrative responses to describe the products, as noted above.¹¹⁴

¹¹⁰ See November 5, 2021, and November 19, 2021, emails from TRLED to parties to the investigation, respectively.

¹¹¹ See December 1, 2021, BGI Written Argument, and December 13, 2021, AKCA Response to Written Argument, respectively.

¹¹² See 19 CFR 165.1.

¹¹³ The aforementioned brief initial RFIs asked HOCA Vietnam and Panasia Vietnam for certain information, including the following: please identify all suppliers to HOCA Vietnam of the following wooden component parts of cabinets and vanities: (1) wooden cabinet and vanity frames (2) wooden cabinet and vanity boxes (which typically include a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves), (3) wooden cabinet or vanity doors, (4) wooden cabinet or vanity drawers and drawer components (which typically include sides, backs, bottoms, and faces), (5) back panels and end panels, (6) and desks, shelves, and tables that are attached to or incorporated in the subject merchandise.” See e.g. the July 7, 2021, RFI issued by TRLED to HOCA Vietnam.

¹¹⁴ Examples of descriptions used by additional suppliers, as noted above, include “[items],” “[items],” and “[items]”

- Vietnam Customs entry documents submitted by HOCA Vietnam relating to shipments from Additional Suppliers 05, 06, 07, 08, and 09, as noted above, describe the merchandise with those components using terms such as [item] rather than describing them as “[item]” and do not even reference them as “[description]” or “[description].”
- [source] indicated to CBP that it had [activity], and [activity] that HOCA Vietnam had misclassified certain merchandise as of [country] origin when it was in fact of [country] origin, and that the items that had been [business activity and location] and misclassified as of [country] origin had included [country].

As noted in the background section above, HOCA Vietnam and its China suppliers indicated the items in question shipped by the suppliers required further processing before they could be considered “finished” parts/components, but the scope of the AD/CVD orders explicitly covers components originating in China, even if they are further processed in a third country. Specifically, as noted above, the scope of the AD/CVD orders indicates such types of processing that would not change the country of origin, for purposes of the AD/CVD orders, include but are not limited “to one or more of the following: trimming, cutting, notching, punching, drilling, painting, staining, finishing, assembly, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope product.”

Therefore, based on documentation from a source of international trade shipments ([data source]), and documents from, and statements by, [source], HOCA Vietnam, and Additional Suppliers 05, 06, 07, 08, and 09, the record of this investigation demonstrates that HOCA Vietnam imported subject merchandise from China, even if many or even all such imported China components had not been “finished” at the time they were imported into Vietnam.¹¹⁵ This is because the scope of the AD/CVD orders covers components made in China even if they are finished in a third country.¹¹⁶ Given the volume of such imports from China, and the fact that [portion] (based on what officials were told during the second site visit) or [portion] (based on HOCA Vietnam’s statements in its RFI response) of HOCA Vietnam’s sales are to the U.S. market, it is evident that merchandise entered by BGI from HOCA Vietnam during the period of investigation was subject to the AD/CVD orders.

Even accepting HOCA Vietnam’s own estimates of percentage of total manufacturing value, which are not supported by specific source data and documentation, the value of the imported

[items].” At times those suppliers also use the expression preferred by BGI, “[items],” but the evidence does not suggest the “[items]” in question are anything less developed than semi-finished furniture components.

¹¹⁵ As discussed above, some of the documentation provided by Additional Supplier 10 and HOCA Vietnam relating to the former’s sales of merchandise to the latter suggest some of that merchandise was covered by the scope of the AD/CVD orders. However, for purposes of this final determination, it is unnecessary to determine whether the products it supplied to HOCA Vietnam were or were not wooden components covered by the scope of the AD/CVD orders, given the evidence relating to the other China suppliers is clearly substantial.

¹¹⁶ See Revised Allegation at Exhibit 1 and Exhibit 2.

Chinese “[items]”, on a quarterly basis, accounted for between [#] and [#] percent of HOCA Vietnam’s total manufacturing costs, depending on the quarter of the period of investigation. Because BGI and HOCA Vietnam are unable to tie specific BGI RTA cabinet kit components to specific inputs supplied to HOCA Vietnam, and because HOCA Vietnam, as noted above, had other U.S. customers as well as [description of business activity], there is no basis for determining the full extent to which BGI’s imports from HOCA Vietnam consist of parts/components that had originated, even if in “[description]” form, from Chinese suppliers. Furthermore, the [#] to [#] percent shares would understate the overall representation of those Chinese parts/components in the overall RTA cabinet kit shipments by HOCA Vietnam in comparison to *other* merchandise included in the RTA cabinet kits. HOCA Vietnam stated the “[items]” it imported from China “needed further substantial processing before they could be considered completed components of WCV products,” so such items imported from China, after they were processed, would have accounted for a greater share of HOCA Vietnam’s total manufacturing costs than [#] to [#] percent.¹¹⁷ Also, some of the additional manufacturing costs would reflect something other than actual merchandise (*e.g.*, packing). In short, even based on HOCA Vietnam’s own estimates, the covered merchandise in the RTA cabinet kits shipped to the United States accounted for a significant part of the overall costs of all the parts contained in those RTA kits, and HOCA Vietnam’s methodology understates the shares for the reasons noted above. In any case, the actual manufacturing cost or value shares of the individual RTA kits imported by BGI accounted for by HOCA Vietnam’s imports from China, even if those shares were knowable (which they are not), would not affect a determination of whether evasion occurred, given those components originating from China are covered by the scope of the AD/CVD orders.

With regard to the photographs of certain items that were submitted by HOCA Vietnam and Additional Supplier 09, there is no basis for assuming that those few photographs are credible representations of [numeric description] million items imported from China and further processed by HOCA Vietnam months or even years prior to the submission of those photographs. The documentation of the transactions associated with those imports from China are more credible representations of their nature.¹¹⁸

In short, the substantial evidence in this investigation, as outlined above, supports a conclusion that HOCA Vietnam obtained [numeric description] million furniture parts/components from China during the period of investigation, following a pattern that existed just prior to the period of investigation (*i.e.*, after cash deposits were required due to Commerce’s AD/CVD investigations), and, with or without further processing in Vietnam, BGI imported RTA cabinet kits from HOCA Vietnam that included such items of China origin. Even if further processed in Vietnam, such items would properly be considered of Chinese origin based on the scope of the

¹¹⁷ As noted, such components are covered by the scope even if they were further processed in Vietnam, because they were components when imported into Vietnam. Thus, if the further processing costs incurred in Vietnam were added to the [#] to [#] percent share of total manufacturing costs claimed to reflect the cost of the components that originated in China, those final “finished” components would account for an even greater share of the total manufacturing costs of the complete RTA cabinet kits than just the [#] to [#] percent claimed by BGI and HOCA Vietnam.

¹¹⁸ Even if one were to consider those photographs as representative, they do not show all the surfaces of the items in question. Furthermore, their appearance may suggest that they were “[description],” but this belies any possible claim that they were “[description]” in any way.

AD/CVD orders and should have been so classified by BGI when the merchandise was entered into the United States.

Arguments by BGI

BGI argues that HOCA Vietnam did not purchase “Three-Piece Components” (doors, drawers, and face frames) from China, but instead purchased [items] from its China suppliers, which it claims are not “Components” covered by the AD/CVD orders.¹¹⁹ BGI states that Affiant 1 provided no evidence to support the affiant’s claim that HOCA Vietnam purchased doors, drawers, and face frames produced and packaged by a specific Chinese producer, that this claim of the affiant is belied by the record, and that by this alone “the affidavits are proven definitely wrong or unacceptable and should be rejected in their entirety for purposes of this investigation.”¹²⁰ Although there is no evidence on the record that the components imported by HOCA Vietnam from China were produced by the specific company referenced by the affiant, there is much evidence that HOCA Vietnam did import such components from China suppliers, as discussed in detail above. That evidence amounts to much more than just the “isolated tidbits of data” or the “mere assertion” suggested by BGI.¹²¹

BGI argues HOCA Vietnam purchased “[items]” from its China suppliers, stating that despite references to actual furniture parts on various sale and Vietnam customs documents, the merchandise imported from the Chinese suppliers were “[items]” rather than “[items],” citing narrative explanation from HOCA Vietnam’s RFI response of August 26, 2021. BGI notes HOCA Vietnam, in that RFI response, explained that [references] reflect [characterization of references and associated parties], and further notes that HOCA Vietnam provided pictures demonstrating the difference “between the [items] and the finished components of WCV.” BGI states that HOCA Vietnam “has, from the outset of its involvement in this investigation, addressed the incorrect designation of its [items] as [items] on its suppliers’ invoices,” and states “{t}he imprecise description of the merchandise evidently then led to incorrect designations of the merchandise on Vietnamese Customs forms and in the trade data that AKCA used in its allegation of evasion against BGI.” Also, referencing its BGI Memo Rebuttal, BGI claims HOCA Vietnam “explained clearly with supporting documents that it imported [items] that should be classified under HTS 4407 or 4411 respectively....” In addition, BGI claims that “{t}he RFI responses and documents from HOCA Vietnam’s Chinese suppliers (Additional Suppliers 05, 06, 07, 08, 09, and 10) “confirm HOCA VN’s statements and description of the [items] that HOCA VN purchased.”¹²²

However, as noted above, various documentation and statements from multiple sources, including HOCA Vietnam and China suppliers, identify the products in question as [

¹¹⁹ See BGI Written Argument at 29-35.

¹²⁰ *Id.* at 29-30.

¹²¹ *Id.* at 4.

¹²² *Id.* at 30-33.

[items] components.¹²³ There is no basis for concluding that items in question imported by HOCA Vietnam from China were misclassified when they were identified as such furniture components, and as noted above, [source and activities of source] to CBP that HOCA Vietnam had imported furniture parts from China, consistent with the conclusion CBP had drawn from aggregate data that [source] had provided to CBP and with [data source] shipment information submitted by AKCA in its allegation.

Furthermore, as noted by AKCA, in a recent new shipper review rescission, Commerce disqualified a Chinese shipper's claim to be a "new shipper" because it had previously shipped to the United States merchandise identified in sales documentation as "birch drawer sides" and classified under an HTSUS number covering furniture components. The Chinese shipper claimed that the merchandise in question was really "wooden boards" rather than furniture components, but Commerce noted that the previously shipped merchandise was subject to the scope of the AD/CVD orders, "which includes "drawer components (which typically include sides, backs, bottoms, and faces)," even if they need to be further processed (in that case, "sawn" into different sizes).¹²⁴

¹²³ BGI claims that HOCA Vietnam, in its response to the brief initial RFI, explained that while it produced wooden components/parts itself, purchased wooden components/parts from Panasia Vietnam, and [business activity], its [items] for its production of cabinets and vanities" and that those [items] were in [description and business activity]." See BGI Written Argument at 16-17. However, the HOCA Vietnam initial RFI response, as noted in the background section above, used the terms "[items]," and the terms "[item]" and "[item]" do not even appear in that response. With regard to product classification, the record indicates such "[items]" were actually furniture components which may have been "[description]" or "[description]," and even BGI notes they were "[business activity]" (emphasis added). As noted above, HOCA Vietnam, in the HOCA Vietnam RFI response, concluded "those [items] as purchased could not be direct components or parts but needed further substantial processing before they could be considered *completed* components of WCV products," and stated that photographs show "{t}hose [items] were substantially different from *finished* components of WCV products..." (emphases added). The merchandise does not need to have been "completed" or "finished" in China in order to be covered by the AD/CVD orders.

With regard to the China suppliers, BGI claims that "{a}mong the Chinese suppliers, Suppliers 05-08 & 10 sold to HOCA {Vietnam} [items and uses], and that "Supplier 09 reported that it sold [items and entity]." *Id.* at 19 and 21, respectively. However, as indicated in the background section above, the China suppliers also described the items in question using wooden components terms and, more importantly, vast amounts of sale and Vietnam customs documentation refer to the products using such wooden components terms.

¹²⁴ See AKCA Response to Written Argument at 11-12, citing *Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*; 2020, 86 Fed. Reg. 62,788 (Dep't Commerce Nov. 12, 2021) and accompanying Issues and Decision Memorandum at Comment 1. Commerce noted that "{n}one of the documents provided by {the Chinese shipper} describe the merchandise as "wooden boards," nor has {the Chinese shipper} cited evidence to support its claim." See aforementioned Commerce Issues and Decision Memorandum at Comment 1. Although in this EAPA investigation some of the sales documentation between HOCA Vietnam and its suppliers refer to "[items]," those references are in conjunction with references to furniture component terms, and as noted above, some of the documentation make references to furniture component terms but not to "[items]."

BGI claims the items imported by HOCA Vietnam from its China suppliers would not be covered by the scope of the AD/CVD orders. BGI argues that “AKCA’s and TRLED’s assumption that materials, and even components and parts sourced from China, further manufactured in a third country, and then exported to the United States as a complete RTA cabinet are automatically included in the scope of the Orders is a false assumption.” BGI states that HOCA Vietnam’s “[items] are not, by themselves, ready to assemble into an RTA cabinet.” BGI then states that the Department of Commerce noted in its investigation that to determine whether in-scope components used in producing, completing, or assembling merchandise in a third country are part of the scope, “a case-specific analysis of the relevant facts would be required before a determination on country of origin could be made, and also before any corollary decision on dubitability could be made.” BGI concluded that “TRLED should not presume that because the scope of the Orders includes ‘components’ of WCV, such components, much less HOCA’s [items], are in-scope when combined with other components and parts to complete a fully assembled or RTA cabinet,” and that “BGI imported RTA cabinets properly classified under 9403.40.9060 as complete and finished cabinets, not individual parts of cabinet classified under 9403.90.” BGI states “{t}he scope of the Orders does not include [items] as imported by HOCA VN from its Chinese suppliers,” and that, looking at the pictures provided by HOCA Vietnam, “{o}ne can easily tell the difference between the [items] and finished cabinet components, and the [items] must undergo substantial processing, *e.g.* [processes] before they are finished cabinet components.”¹²⁵

However, based on the evidence on the record, as discussed above, the items HOCA Vietnam imported from the Chinese suppliers were components rather than simply “[items].” With regard to BGI’s claim that it did not import individual cabinet parts, but, rather, RTA cabinet kits, the scope clearly states that RTA cabinet kits may include wooden components,¹²⁶ and, as noted, the scope explicitly covers wooden components that originated in China even if those wooden components are subsequently further processed in another country. The fact that RTA cabinet kits may be classified under a different HTSUS number than individual wooden components does not mean components of China origin included in an RTA cabinet kit are not covered by the scope. The issue raised to Commerce that BGI cited concerned whether duties would apply to an entire cabinet consisting partly of Chinese parts, or to just the portion consisting of Chinese parts, and Commerce’s response does not suggest that items explicitly covered by the scope, such as wooden components (doors, *etc.*) produced in China, even if processed in a third country, would be exempt from AD/CVD duties if they are packaged with other, non-subject items. The scope explicitly covers components originating in China, even if they were further processed in a third country such as Vietnam, and substantial evidence indicates HOCA Vietnam sourced [numeric description] million such components from China during the period of investigation which, whether with or without further processing, were included in RTA cabinet kits shipped to the United States to customers such as BGI.

¹²⁵ See BGI Written Argument at 33-35.

¹²⁶ See *e.g.* AD Order at 22133, included in Exhibit 1 of the Revised Allegation.

BGI argues that HOCA Vietnam’s [items] do not represent the essential characteristics of WCV or the greater part of its value. BGI states AKCA exaggerates the importance of parts versus the cabinet frame/box, noting the scope states the WCV “typically includes a top, bottom, sides, back, base blockers, ends/end panels, stretcher rails, toe kicks, and/or shelves” but only “may or may not include a frame, door, drawers and/or shelves.” BGI cites statements by the HOCA Vietnam production manager claiming AKCA has overstated the value of parts such as cabinet drawers and drawer faces. BGI cites information in Exhibit 7 of the HOCA Vietnam RFI response that it contends shows “the imported [items] accounted for a small portion of the total cost of WCV products, and this percentage decreased in the inquiry period, since HOCA VN increased its own production in Vietnam.” “In other words,” BGI states, “HOCA VN produced the WCV products substantially in Vietnam, although its production involved [items] from China in the inquiry period, and those [items] were indeed part of the materials for the production of completed WCV RTA products.” BGI claims HOCA Vietnam “decreased and then stopped imports of [items] from China in the late inquiry period, *i.e.*, HOCA VN already 100% produced RTA cabinets in Vietnam by the time CBP notified BGI of EAPA Inv. 7603 and imposed interim measures in this case.”¹²⁷ Regardless of whether components of the RTA cabinet kits were produced in Vietnam and whether HOCA Vietnam’s use of components originating in China ceased at some point during the EAPA period of investigation, the HOCA Vietnam imports from China that BGI characterizes as “[items]” are covered by the scope of the AD/CVD orders, even if further processed in Vietnam prior to their inclusion in the RTA cabinet kits shipped to BGI, as discussed above.¹²⁸

¹²⁷ See BGI Written Argument at 35-38.

¹²⁸ BGI has not acknowledged that it imported from HOCA Vietnam any WCV subject to the AD/CVD orders. Though this is not pertinent with respect to the final determination of whether evasion occurred, there is no indication BGI has made any effort to determine the portion of each entry of RTA cabinet kits obtained from HOCA Vietnam accounted for by the components originating, with or without later further processing in Vietnam, from China, and HOCA Vietnam did not do so in this EAPA investigation when requested by CBP for a specific example. Based on HOCA Vietnam’s statements, it is unable, or at the very least, unwilling, to do so, given “it is difficult to reconcile the quantity in a shipment to BGI to the quantity in a PO that HOCA Vietnam placed with its supplier, and to the quantity in a shipment/invoice from the supplier,” and that “to completely cross match the products ordered/shipped in one sale would be extremely burdensome, if not impossible.” See HOCA Vietnam supp RFI response at 20. Furthermore, the aggregate estimates reflected in Exhibit 7 of the HOCA Vietnam RFI response presented to show the share of HOCA Vietnam’s total manufacturing costs accounted for by the “[items]” imported from China, even if assumed to be accurate, cannot be assumed to be representative of the merchandise in BGI’s entries, given BGI was not HOCA Vietnam’s only customer. Furthermore, those aggregate estimates were not accompanied by detailed supporting documentation for the value of the materials produced in China, the direct costs of processing operations performed in Vietnam, or the other costs associated with the total manufacturing costs referenced.

In addition, though also not relevant regarding the final determination of whether evasion occurred, while HOCA Vietnam claimed in its RFI response that it “stopped imports of [items] after [date]” (see HOCA Vietnam RFI response at 9), HOCA Vietnam did not claim that it had stopped using such imports for filling orders to its customers by that time. That, in conjunction with the additional time required to ship merchandise from Vietnam to BGI in the United States, means that entry by BGI of merchandise containing such subject merchandise may have continued after BGI was notified of the EAPA investigation in June 2021, even if HOCA Vietnam no longer imported what BGI calls “[items]” after [date]. Furthermore, HOCA Vietnam’s statement that it “stopped imports of [items] after [date]” is ambiguous, as that could mean the actual stopping of such imports could have occurred at any date after [date], and not necessarily immediately after that date.

BGI claims the record indicates HOCA Vietnam had sufficient production capacity to manufacture the merchandise it sold to BGI,¹²⁹ and claims not only that HOCA Vietnam “submitted production records and workers’ attendance sheets to establish that together they had sufficient production capacity for all the cabinets that HOCA {Vietnam},” but also that HOCA Vietnam “established that it produces the cabinets on site in Vietnam with sufficient upstream wood and lumber materials, labor, and machinery.”¹³⁰ Although record evidence indicates HOCA Vietnam produces and processes wooden cabinet components, and that it purchases items, including wooden cabinet components, from other Vietnam companies, the fact remains that HOCA Vietnam imported vast numbers of components from China suppliers, and the record supports a conclusion that those components, whether or not they were further processed by HOCA Vietnam, were included in RTA cabinet kits shipped to BGI. HOCA Vietnam did not claim that those items imported from China were not included, after further processing, in its shipments to U.S. customers such as BGI, and as noted above, [numeric description] of HOCA Vietnam’s sales were to U.S. customers.

BGI argues that various information relied upon by CBP earlier in the investigation do not constitute evidence of evasion. BGI notes that TRLED, in its NOI, stated there was reasonable suspicion of evasion, and “based its conclusion of U.S. import data, Panjiva data showing that BGI had a history of purchasing and importing WCV from China, and HOCA VN’s Chinese ownership as evidence of evasion.” BGI indicates that “it is absurd to suggest that all cabinet companies that set up abroad from China with Chinese owners are transshipping.” BGI claims the U.S. trade data showing patterns of import volumes from China and Vietnam, and the Panjiva data indicating BGI’s patterns of importing WCV from China and then Vietnam, “cannot reasonable suggest evasion.” BGI cites a court ruling finding that “export and import data alone do not suffice for Commerce to initiate a circumvention inquiry,” and that such reasoning applies to EAPA investigations, too. BGI states the courts have supported the notion that business practices and trade flows adjust to the imposition of AD/CVD duties, and concludes that “AKCA’s and TRLED’s import and export data provide no evidence that BGI and HOCA VN transshipped covered merchandise to the United States,” as “{t}he trade data simply does not provide the who, what, when, where, and how of the charged evasion.”¹³¹ However, CBP did not indicate it initiated this investigation, or impose interim measures, based solely, or even primarily, on the trade data referenced by BGI. Such data trends were only some of the evidence supporting a reasonable suggestion and reasonable suspicion of evasion during the earlier stages of this investigation, and CBP has not, and is not, claiming that those data trends alone would have been adequate to justify those conclusions earlier in the investigation, let alone a final finding of substantial evidence of evasion. Nevertheless, the lower evidentiary bars for initiation, and later for imposition of interim measures, were satisfied, based on the assorted evidence noted above for those stages of the investigation. For this final determination, there is evidence from multiple sources indicating that HOCA Vietnam imported vast numbers of components from China suppliers, and the record supports concluding those components, whether or not they were further processed by HOCA Vietnam, were included in RTA cabinet kits shipped to BGI.

¹²⁹ See BGI Written Argument at 27-29.

¹³⁰ *Id.* at 2.

¹³¹ *Id.* at 24-27.

BGI argues that certain apparent discrepancies cited in the NOI are not actually discrepancies and provide no basis for a finding of evasion. With regard to one claimed discrepancy, BGI states that in its NOI, TRLED appears to question the validity of BGI's claim that HOCA Vietnam sourced inputs, including furniture components, from Panasia Vietnam, given that officials at the site visit were not informed of Panasia Vietnam's involvement in HOCA Vietnam's operations. BGI states there was no reason for the HOCA Vietnam officials to notify the U.S. Government officials on the site visit about Panasia Vietnam, because Panasia Vietnam was no longer in operation as of the time of the site visit. BGI also indicates TRLED was incorrect to conclude in the NOI that furniture parts from China were being incorporated into HOCA Vietnam's shipments of RTA cabinet kits to BGI, given "TRLED had no basis at the time it issued its Interim Measures Notice and no basis now for assuming that HOCA's [items] imported from China are covered by the Orders."¹³² With regard to Panasia Vietnam, CBP is not basing its final determination of evasion on the fact that HOCA Vietnam did not refer to Panasia Vietnam, an entity that incidentally was still in existence during the site visit in its final determination. Regarding the evidence during the investigation relating to whether or not wooden components of China origin were incorporated into HOCA Vietnam shipments to U.S. customers (e.g., BGI), that topic is discussed in elsewhere in this final determination.¹³³

BGI also claims that TRLED based its NOI in part on "AKCA's claim that BGI or its owner may have invested in HOCA {Vietnam} and is fully aware of an alleged 'evasion scheme,'" but, as BGI was subsequently able to explain when questioned about affiliations, no such affiliations existed in the period of investigation.¹³⁴ However, in the "Analysis" sections of the Initiation Memo and the NOI, CBP did not rely on claimed affiliations between BGI and HOCA Vietnam,¹³⁵ and CBP is not citing the nature of the relationships between those two companies as relevant in this final determination.

BGI states that the AKCA affidavits of Affiant 1 and Affiant 2 that TRLED relied upon as evidence do not meet the standard of reliability and argues that TRLED should disregard those affidavits in making its final determination.¹³⁶ The affiants indicated that HOCA Vietnam was obtaining components from suppliers in China, and that those components were included in RTA

¹³² *Id.* at 40-41.

¹³³ However, we note that the passage in the NOI cited by BGI in its written argument pertaining to the conclusion in the NOI that certain redacted evidence "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" references redacted information of a type also redacted by HOCA Vietnam in its RFI responses. The passage in the site visit report is a reference to the fact that the site visit officials were informed by HOCA Vietnam that "[description of business activity]". See NOI at 6. Based on its RFI responses, in addition to those sales, HOCA Vietnam apparently had a relatively small quantity of sales [description], as noted above. In any case, if HOCA Vietnam had been importing large volumes of components from China, as other evidence available at the time of the NOI suggested, and if [portion] (or [portion]) of HOCA Vietnam's sales of products were [description], that combination of factors constituted additional evidence of evasion, given BGI had not been declaring its imports from HOCA Vietnam as subject to the AD/CVD orders.

¹³⁴ See BGI Written Argument at 41-42.

¹³⁵ See Initiation Memo at 3-4, and NOI at 6-7.

¹³⁶ See BGI Written Argument at 38-40.

cabinet kits shipped to the United States. Other record evidence supports this conclusion, as noted above.

BGI addresses what it argues are procedural deficiencies in the EAPA investigation process as they relate to this investigation. First, BGI states the site visit performed by a U.S. government agency did not provide BGI and HOCA Vietnam the protections provided by CBP for a regulatory audit. BGI argues that TRLED has no basis upon which to keep the contents (narrative, photographs, and videos) and conclusions associated with the site visit secret from HOCA Vietnam because the information in question is HOCA Vietnam's very own.¹³⁷ Regarding CBP regulations relating to regulatory audits, CBP did not conduct the site visit but, rather, it was conducted by officials of another U.S. Government agency. Section 165.5(a) of the EAPA Regulations indicates that in obtaining information necessary to conduct an investigation, CBP may employ any means authorized by law, including obtaining information from its own files and from other agencies of the United States Government, among other means. Consistent with 19 C.F.R. § 165.5(a) of the EAPA Regulations, CBP placed the report on the record of this investigation, as noted above, including bracketing and redaction as required by the EAPA regulations. In any case, although the site visit report confirmed that production and processing operations were occurring at HOCA Vietnam in late 2020, it does not reference the [numeric description] million components imported by HOCA Vietnam from China suppliers, and the report is not being cited as containing any substantial evidence of evasion.

BGI argues that due process requires that TRLED provide BGI and HOCA Vietnam the opportunity to defend against all allegations and evidence used against them, and that "TRLED's failure to provide BGI and HOCA {Vietnam} or their legal counsel with confidential versions of the allegations against them under an administrative protective order or otherwise from the outset of CBP's investigation denies the Respondents their right to effective legal representation."¹³⁸ However, parties submitting information to CBP are entitled to request that their business confidential information be concealed from other outside parties, and CBP is required to bracket and redact business confidential information that appears in its own documents. No administrative protective order process exists under CBP's regulations.

Finally, BGI argues that due process requires that TRLED allow HOCA Vietnam to submit written arguments.¹³⁹ However, the EAPA regulations define "parties to the investigation" as the allegor and the importer;¹⁴⁰ therefore, because HOCA Vietnam is not under investigation of evasion, it is not considered a party to the investigation. Additionally, according to the EAPA regulations, only parties to the investigation may submit written arguments to CBP.¹⁴¹

Actions Taken Pursuant to the Affirmative Determination of Evasion

In light of CBP's determination that the BGI entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR

¹³⁷ *Id.* at 42-43.

¹³⁸ *Id.* at 43-47.

¹³⁹ *Id.* at 47-50.

¹⁴⁰ *See* 19 C.F.R. § 165.1.

¹⁴¹ *Id.* § 165.26(a)(1).

165.28, CBP will suspend or continue to suspend the entries subject to this investigation until instructed to liquidate these entries. For those entries previously extended in accordance with the interim measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries. CBP will also evaluate BGI's continuous bonds in accordance with CBP's policies and may require single transaction bonds as appropriate. None of the above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Hoxie". The signature is fluid and cursive, with the first name being the most prominent.

Brian Hoxie
Director, Enforcement Operations Division
Trade Remedy Law Enforcement Directorate
Office of Trade