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Re: Notice of Determination as to Evasion - EAPA Case 7604

Pursuant to an examination of the record in Enforce and Protect Act (EAPA) Investigation 7604, U.S. Customs and Border Protection (CBP) has determined there is substantial evidence that Simpli Home, Ltd. (Simpli Home or Importer) entered merchandise covered by antidumping duty (AD) and countervailing duty (CVD) orders A-570-084 and C-570-085¹ (the AD/CVD Orders or the Orders) on quartz surface products (QSP) from the People's Republic of China (China) into the customs territory of the United States through evasion. Substantial evidence demonstrates Simpli Home imported Chinese-origin QSP that were attached to vanities to the United States with a claimed country of origin of Vietnam. As a result, no cash deposits were applied to the merchandise at the time of entry.

Background

On January 18, 2021, the Cambria Company LLC (Cambria or the Allegor) filed an allegation against Importer Simpli Home.² On March 3, 2021, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP's Office of Trade, acknowledged receipt of the properly filed allegation by the Allegor, a domestic producer of QSP.³ TRLED found the information provided in the Allegation reasonably suggested that Simpli Home entered covered merchandise into the customs territory of the United States through evasion. Consequently, CBP initiated an

¹ See *Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Order*, 84 FR 33,053 (July 11, 2019) (the *Orders*).

² See Letter from the Allegor, "Quartz Surface Products from the People's Republic of China: Request for an investigation under the Enforce and Protect Act of Simpli Home Ltd.," dated January 18, 2021 (Allegation).

³ See email "EAPA 7604 - Receipt of Simpli Home Ltd.," dated March 3, 2021.

investigation on March 24, 2021, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the “EAPA.”⁴

After evaluating all the information on the record, on June 29, 2021, CBP issued its Notice of Initiation and Interim Measures.⁵ TRLED determined that reasonable suspicion existed that Simpli Home had evaded the Orders by claiming QSP imported into the United States was of Vietnamese origin when it was actually of Chinese origin.⁶ TRLED based its determination on the sufficient information provided in the Allegation (*e.g.*, trade data showing Chinese artificial stone exports to Anaq and product marketing showing quartz countertops) and due to Simpli Home’s failure to respond to CBP Form – 28 questions.⁷ By not responding, the Importer did not provide any information contradicting the evidence in the Allegation that its bathroom vanities contained Chinese-origin QSP countertops.

On July 7, 2021, pursuant to 19 CFR 165.5, CBP sent a Request for Information (RFI) to Simpli Home requesting information on the claimed manufacturer Anaq Viet Nam Co. Ltd.’s (Anaq) shipments to the Importer.⁸ On July 16, 2021, CBP sent an RFI by FedEx to Anaq requesting information on its shipments to the Importer.⁹ On July 22, 2021, CBP re-sent the RFI to Anaq by email.¹⁰ On July 23, 2021, CBP sent an RFI to Simpli Home requesting Anaq’s contact information,¹¹ and Simpli Home failed to respond to this RFI. On July 28, 2021, CBP received an RFI response from Simpli Home to CBP’s July 7 RFI.¹² On July 30, 2021, CBP sent supplemental RFIs to Anaq and Simpli Home,¹³ and Anaq and Simpli Home failed to respond to these supplemental RFIs. On August 8, 2021, Anaq filed a notice that it was not responding to CBP’s July 16 RFI.¹⁴ On August 11, 2021, Anaq filed comments, reiterating what it said in its notice of not responding, that it sourced calcium carbonate countertops.¹⁵ On September 14, 2021, CBP sent a second supplemental RFI to Simpli Home.¹⁶ On September 27, 2021, CBP

⁴ See Memorandum to File, “Initiation of Investigation for EAPA Case Number 7604 – Simpli Home, Ltd.,” dated March 24, 2021.

⁵ See Memorandum, “Notice of Initiation of Investigation and Interim Measures - EAPA Case 7604,” dated June 29, 2021 (NOI).

⁶ See Memorandum, “Notice of Initiation of Investigation and Interim Measures - EAPA Case 7604,” dated June 29, 2021 (NOI); *see also* letter from CBP, “CF-28,” dated April 13, 2021; *see also* letter from CBP, “CF-29,” dated May 19, 2021.

⁷ *Id.*

⁸ See Memorandum to Simpli Home, “EAPA CASE NUMBER 7604 Simpli Home Ltd. Request for Information,” dated July 7, 2021 (Simpli Home RFI).

⁹ See Memorandum to the File, “Release of Request for Information,” dated July 16, 2021 (Anaq RFI).

¹⁰ See email “EAPA 7604 – Request for Information,” dated July 22, 2021.

¹¹ See letter from Simpli Home, “Simpli Home Ltd. Reply to Request for Information EAPA Consolidated Case Number: 7604 Our Reference: 133702-0060001,” dated July 28, 2021 (RFI Response). Simpli Home had to refile part of its RFI response at the request of CBP due to missing exhibits. See email “EAPA 7604 – RFI Missing Exhibits,” dated July 29, 2021.

¹² See email “EAPA 7604 – Vietnam Anaq Contact Information,” dated July 23, 2021.

¹³ See email “EAPA 7604 – Supplemental Request for Information - Anaq,” dated July 30, 2021; *also see* email “EAPA 7604 – Supplemental Request for Information – Simpli Home,” dated July 30, 2021.

¹⁴ See email “EAPA 7604 – CBP RFI to Vietnam Anaq,” dated August 9, 2021.

¹⁵ See letter from Anaq “Investigation – EAPA Case 7604 Cong Ty TNHH Anaq Viet Nam Response to Customs Request for Information Our Reference: 13372-0060001,” dated August 11, 2021.

¹⁶ See Memorandum to Simpli Home, “EAPA Case Number 7604 Supplemental Request for Information,” dated September 14, 2021 (Supplemental RFI).

received a supplemental RFI response to the second supplemental RFI from Simpli Home.¹⁷

On November 3, 2021, CBP placed a memorandum to the file on the administrative record containing screenshots of Simpli Home's customers selling its vanities.¹⁸ On November 15, 2021, Simpli Home submitted rebuttal information in accordance with 19 CFR 165.23(c)(2).¹⁹ On December 2, 2021, Simpli Home submitted written arguments.²⁰ On December 6, 2021, the Alleger submitted its rebuttal to the written arguments.²¹

Analysis

Under 19 USC 1517(c)(1)(A), to reach a final 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."²² 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 of any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the merchandise."²³ As discussed below, the record of this investigation indicates there is substantial evidence that covered merchandise was entered by Simpli Home into the United States through evasion, resulting in the avoidance of applicable AD/CVD cash deposits or other security.

Adverse Inferences

EAPA regulation at 19 CFR § 165.6(a) states:

If...the importer, or the **foreign producer or exporter** of the covered merchandise fails to cooperate and comply to the best of its ability with a request for information made by CBP, CBP may apply an inference adverse to

¹⁷ See letter from Simpli Home, "Simpli Home Ltd. Reply to Supplemental Request for Information EAPA Consolidated Case Number: 7604 Our Reference: 13372-0060001," dated September 27, 2021 (Supplemental RFI Response).

¹⁸ See Memorandum to the File, "Screenshots from Various Websites," dated November 3, 2021 (MTF Screenshots).

¹⁹ See letter from Simpli Home, "Simpli Home Co., Ltd. EAPA Investigation Case No. 7604 Rebuttal Customs Memorandum to File of November 3, 2021," dated November 15, 2021.

²⁰ See letter from Simpli Home "Simpli Home Co., Ltd. Written Argument (Revised per CBP Request) Investigation Concerning Evasion of the Antidumping and Countervailing Duty Orders on Quartz Surface products from China," dated December 2, 2021 (Simpli Home Written Arguments). Simpli Home initially submitted written arguments on November 17, 2021; however, CBP rejected Simpli Home's written arguments due to its page length and requested Simpli Home to refile. See email "EAPA 7604 – Simpli Home's Written Argument Submission and Revised Deadline for Rebuttal Arguments," dated December 1, 2021.

²¹ See letter from Cambria, "Quartz Surface Products from China, on Behalf of Cambria Company LLC, Investigation's Response to Written Comments," dated December 6, 2021 (Alleger Rebuttal Arguments).

²² Substantial evidence is not defined in the statute. However, the Federal Circuit has stated that "substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." See *A.L. Patterson, Inc. v. United States*, 585 Fed. Appx. 778, 781-782 (Fed. Cir. 2014) (quoting *Consol. Edison Co. of N.Y. v. NLRB*, 305 U.S. 197, 229 (1938)).

²³ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion...

(emphasis added).²⁴

Furthermore, EAPA regulation at 19 CFR §165.6(c) states:

An adverse inference described in this section may be used with respect to the importer of the covered merchandise, or the foreign producer or exporter of the covered merchandise without regard to whether another party involved in the same transaction or transactions under examination has provided the information sought by CBP, such as import or export documentation.²⁵

CBP finds that both Simpli Home and Anaq failed to act to the best of their ability in this EAPA investigation. As detailed above, Anaq failed to respond to CBP's July 16, 2021 RFI and in response to it stated "...Anaq has elected to forego responding to the CBP RFI."²⁶ Anaq also failed to respond to CBP's July 30, 2021 supplemental RFI. Participation of the manufacturer, *i.e.*, Anaq, and its responses to CBP's RFIs are absolutely crucial to CBP's analysis as the RFIs ask for source documents substantiating the production—and therefore the country of origin—of the imported products. The only information CBP has from Anaq is its August 11, 2021, submission consisting of two pages making unsubstantiated claims that it sourced its countertops from Vietnamese suppliers and had no involvement in their production. If Anaq had cooperated with the investigation by answering the RFIs, its responses would have also helped substantiate or disprove claims made by interested parties and would have facilitated CBP's investigation.

Because of Anaq's refusal to participate, CBP lacks vital information from the manufacturer to substantiate any claim that the subject countertops were not QSP covered under the Orders. CBP has no evidence on the record from the manufacturer that refutes the Alleger's claim that Anaq imported QSP from China. Nor does CBP have any evidence from Anaq to substantiate its and Simpli Home's claims of the source and composition of the countertops in question, *i.e.*, that the countertops are sourced in Vietnam and are specifically requested to be calcium carbonate.²⁷ Anaq could have provided this vital information (*e.g.*, via engineering specifications or order specifications) that could help determine the source and composition of the countertops in question. However, because of Anaq's refusal to cooperate with the investigation to the best of its ability, CBP was unable to corroborate that the countertops imported by the Importer were actually produced in Vietnam or were made of a material other than quartz. Therefore, due to Anaq's documented refusal to participate, CBP finds that Anaq failed to cooperate to the best of its ability in this EAPA investigation.

Additionally, Simpli Home has failed to cooperate to the best of its ability in responding to a significant number of RFIs. On multiple occasions, CBP requested Simpli Home provide in a

²⁴ See 19 U.S.C. § 1517(c)(3) (statutory authority for this regulation).

²⁵ See *Id.* § 1517(c)(3)(B) (statutory authority for this regulation).

²⁶ See letter from Anaq "Investigation – EAPA Case 7604 Cong Ty TNHH Anaq Viet Nam Response to Customs Request for Information Our Reference: 13372-0060001," dated August 11, 2021.

²⁷ See Simpli Home Written Arguments, at 6-9.

timely manner contact information for Anaq, which would have aided CBP's efforts to ensure Anaq received its RFIs as soon as possible.²⁸ Despite multiple requests, Simpli Home failed to provide the requested contact information for Anaq in a timely manner. This impeded the investigation by shortening the time available to analyze responses and issue supplemental RFIs. As evident by Simpli Home's RFI response (dated July 28, 2021), it had the contact information for Anaq when CBP requested it and simply withheld it.²⁹

Furthermore, Simpli Home failed to provide sufficient answers in its responses to CBP's RFIs that would clarify the origin and composition of the countertops. Simpli Home did not provide purchase orders from its domestic customers or invoices and packing lists issued by Simpli Home to its domestic customers for the covered merchandise, despite CBP requests to do so. CBP asked Simpli Home to provide copies of domestic purchase orders;³⁰ however, its RFI Response only references purchase orders issued by Simpli Home to Anaq as opposed to the purchase orders received by Simpli Home from its domestic customers as requested.³¹ In its Supplemental Response, Simpli Home said it did not get any hard copies of purchase orders from its domestic customers and that it no longer had the computer transmissions, as they were received through electronic data interchange (EDI).³² However, Simpli Home did provide four illegible screen prints of EDI transmissions allegedly representing the domestic purchase orders and invoices.³³ Because Simpli Home provided four screen prints from EDI showing domestic purchase, despite them being illegible Simpli Home could have provided more screen prints from EDI to comply with CBP's request for copies of its domestic purchase orders. This is further evidence that Simpli Home failed to act to the best of its ability, because Simpli Home withheld information requested by CBP that would aid in determining the compositional makeup of its countertops.

Simpli Home failed to provide an accurate value of the countertops compared to the rest of the vanity, which impeded the investigation and CBP's ability to determine the appropriate amount of AD/CVD duties. Simpli Home also did not respond to CBP's request for a value breakdown for the imported bathroom vanities separately showing the value of the countertops, sinks, and cabinets. Additionally, Simpli Home did not provide an explanation for the valuation with support for the numbers.³⁴ CBP asked this same question again in the Supplemental RFI, and Simpli Home did provide an estimated value of the countertops;³⁵ however, Simpli Home did not substantiate this through evidence (*e.g.*, how it did its calculations or provide source materials that show how it came to the percentages it reported).³⁶ Simpli Home reported to CBP only the total value of the completed bathroom vanity (*i.e.*, countertop, sink, and cabinetry).³⁷ Failure to provide the requested information impacts CBP's ability to apply the appropriate AD/CVD duties, as the AD/CVD duties only are applicable to the QSP countertop and not the entire assembled

²⁸ See email "EAPA 7604 – Vietnam Anaq Contact Information," dated July 23, 2021.

²⁹ See RFI Response, at 12.

³⁰ See RFI, at Question 5.

³¹ See RFI Response, at exhibit K.

³² See RFI Response, at 14; *see also* Supplemental Response, at 7-8.

³³ See Supplemental Response, at Exhibit F.

³⁴ See RFI Response, at 13-14.

³⁵ See Supplemental RFI, at Question 9.

³⁶ See Supplemental Response, at 7.

³⁷ See NTAC Report.

product.³⁸ As a result, CBP has no idea how the Importer generated the values that it provided, and therefore, CBP determines that those values are unreliable.

Finally, Simpli Home did not provide any email communications between it and Anaq. In response to CBP's requests for emails or electronic communications used to transmit the specifications of the countertops to Anaq, Simpli Home stated it no longer has these communications as they occurred more than two years ago.³⁹ Simpli Home made no statement nor provided any evidence that it tried to get such communications from Anaq. This suggests that Simpli Home made no effort to try to recover the missing communications requested by CBP, which would have helped substantiate any number of claims by Simpli Home (*e.g.*, the countertops' composition).

Taken *in toto*, CBP finds that Simpli Home failed to cooperate to the best of its ability in this EAPA investigation due to its failure to respond to certain RFIs and in its failure to provide sufficient information to key questions asked by CBP. As a result, CBP is applying adverse inferences against both Simpli Home and Anaq and relying on information submitted in the Allegation and other evidence on the record to find that Simpli Home imported QSP of Chinese origin by transshipment through Vietnam into the United States.

Simpli Home's Products

Based on evidence on the record, CBP determined that Simpli Home imported 70 models of bathroom vanities from Anaq during the period of investigation.⁴⁰ Evidence on the record shows the bathroom vanities imported by Simpli Home included countertops that were described as "engineered quartz" in either Anaq's commercial invoice, Simpli Home's purchase order, or the inventory-in reports.⁴¹ Evidence on the record also shows that the bathroom vanities identified on websites associated with sales of Simpli Home products were described as having "engineered quartz" countertops.⁴² In its Supplemental Response, Simpli Home stated it assisted the websites in the initial uploading of the information about the bathroom vanities by providing images, videos, product descriptions, and daily pricing and updated inventory levels.⁴³ Simpli Home also stated the merchandise, along with the descriptions of "engineered quartz," were posted to its website for sale.⁴⁴ Screenshots submitted in the Allegation show bathroom vanities offered for sale on Simpli Home's website; however, the model numbers were not included. Furthermore, Simpli Home did not provide us its internet-based advertising material as requested

³⁸ See the *Orders*, at 33055.

³⁹ See Supplemental Response, at 4.

⁴⁰ See RFI Response, at Exhibits H, J, and N. The period of investigation is March 3, 2020, through the pendency of this investigation, *i.e.*, January 28, 2022. Of special note, three models of bathroom vanities, *i.e.*, [Model #s], were described as having granite countertops. However, since Anaq cannot substantiate the claim of the material composition of those three countertops and because Simpli Home claims countertops described as quartz are made of other materials, CBP is unsure of the true composition of those three countertop models. Additionally, because Anaq and Simpli Home failed to cooperate to the best of their ability, CBP also finds by application of adverse inference that these models are inside the scope of the EAPA investigation.

⁴¹ See RFI Response, at Exhibits H, J, and N.

⁴² See MTF Screenshots.

⁴³ See Supplemental Response, at 15.

⁴⁴ *Id.*

in the Supplemental RFI, which would give CBP a better understanding of how Simpli Home refers to its countertops internally and externally.⁴⁵

Nevertheless, Simpli Home maintains that the quartz countertops imported with its bathroom vanities from Anaq are not actually made of quartz, but of calcium carbonate, also known as (aka) marble. In its Supplemental Response, Simpli Home asserted it marketed the bathroom vanities based on general industry nomenclature and its belief that “quartz” was a more luxurious description.⁴⁶ It also acknowledged that the countertops were described as “quartz marble” for sourcing/marketing purposes, but indicated the phrase was used in the “colloquial sense (*e.g.*, see the ubiquitous use of the word “coke” to mean a Coca-Cola or Pepsi).”⁴⁷ Simpli Home claims that engineered stone, when first introduced, was primarily constructed from quartz, making the description “quartz” the common moniker for the product.⁴⁸ Simpli Home stated the advent of new manufacturing technology made it possible to produce engineered stone from a large variety of raw materials other than quartz. Simpli Home stated while the composition of engineered stone changed, the industry parlance did not, which it said explained its use of “quartz” on internal records or external sales records.

Contrary to Simpli Home’s assertion, there is no evidence on the record that supports its claim that the industry parlance for engineered stone is “quartz.” For example, Simpli Home did not substantiate its claim by providing an accepted industry definition from a reputable source, affidavit of an outside party, or documents from third party that show usage of the term “quartz” in colloquial use. Evidence on the record shows all internal communications as well as marketing, sales, and product descriptions describe the countertops as “quartz.”⁴⁹ Furthermore, Anaq’s failure to respond to any RFIs means there is no credible evidence on the record from the manufacturer to support the claim the countertops were not made of actual quartz.

Simpli Home has also repeatedly alleged that the imported countertops were composed of calcium carbonate, aka marble, and contained no quartz or silica.⁵⁰ To substantiate its claim that the imported countertops did not contain quartz or silica, Simpli Home provided the results of a compositional analysis of “like engineered stone.”⁵¹ CBP does not find that the compositional analysis referenced by Simpli Home substantiates its claim for the following reasons:

- The analysis was done on stone from [company name], but there is no evidence on the record that definitively links it to products sourced from Anaq and to products covered by the EAPA investigation.⁵²

⁴⁵ See Supplemental RFI, at Question 5b. CBP added screenshots of Simpli Home’s bathroom vanities advertised and available purchase on its customer websites. See MTF Screenshots. However, Simpli Home’s failure to fully respond to CBP’s request shows an attempt to withhold information, potentially to impede CBP’s investigation in a possible attempt to obtain a more favorable result in the investigation.

⁴⁶ See Supplemental Response, at 15.

⁴⁷ See Simpli Home Written argument, at 7 fn. 13; see also Supplemental Response, at 1.

⁴⁸ See Supplemental Response, at 16.

⁴⁹ See *e.g.*, MTF Screenshots; see also *e.g.*, RFI Response, at Exhibit H, J, and N.

⁵⁰ See *e.g.*, RFI Response, at 16; see also *e.g.*, Supplemental Response, at Exhibit B; see also Simpli Home Written Arguments, at 6-8.

⁵¹ See RFI Response, at Exhibit R.

⁵² *Id.*

- The analysis contains two different dates written on it, *i.e.*, May 30, 2019, and May 30, 2020.⁵³
- The compositional analysis was for “like engineered stone” as opposed to the imported countertops subject to the EAPA investigation.⁵⁴
- The analysis did not include any unique identifiers (*e.g.*, model number, product marketing name, etc.) for the “artificial stone.”⁵⁵

Taken all together, CBP finds the test report provided by Simpli Home to be unreliable and impossible to trace to the countertops imported during the period of investigation. Therefore, CBP finds that the compositional analysis does not substantiate Simpli Home’s claim that the imported bathroom vanities had countertops that contained calcium carbonate rather than quartz or silica.⁵⁶

Simpli Home also provided two test reports from Intertek Testing Services Shenzhen Ltd. Guangzhou Branch (Intertek) to support its claim that it imported countertops containing calcium carbonate, aka marble, that did not contain quartz or silica.⁵⁷ Simpli Home said it randomly selected two samples of engineered stone for testing from bathroom vanities imported under entry number [#]9108, specifically model number [#] and entry number [#]2373, specifically model number [#].⁵⁸ However, there are a number of discrepancies with the test reports provided to CBP:

- Intertek test report number 210830188GZU-001 tested model number [#], not model number [#], with no explanation of how, or if, they relate to each other.⁵⁹ Additionally, the commercial invoice provided by Simpli Home does not show [#] on it, but [#], which indicates they are different products.⁶⁰
- Simpli Home did not provide evidence supporting its declaration that the sampled model numbers tested were the same as the reference model numbers (*e.g.*, engineering specifications, ordering specifications, *etc.*), which are crucial in determining the similarity of products.⁶¹
- Evidence on the record shows that all the models listed by Simpli Home as having the “same” countertop material as the tested model were being sold as or referenced in internal Simpli Home records as having “engineered quartz” or “quartz” as opposed to just “marble” or “engineered marble” countertops.⁶²

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ The scope of the *Orders* states “Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.*, quartz, quartz powder, cristobalite) as well as a resin binder (*e.g.*, an unsaturated polyester).” *See Orders*. Therefore, the inclusion of predominantly silica would make the countertops within the scope of the *Orders*.

⁵⁷ *See* Supplemental Response, at Exhibit B.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

- There are incomplete stamps on every page of each report, showing that items are superimposed on top of it, which draws into question the legitimacy of the reports.⁶³
- Simpli Home did not send the whole product to be sampled, but a portion of it with no supporting evidence as to the source of the tested product.⁶⁴
- Entry number [#]2373 did not include model number [#], but instead included model number [#].

For the reasons listed above, CBP finds that the test reports provided by Simpli Home are unreliable and do not sufficiently support Simpli Home’s claim that the imported countertops contained calcium carbonate as opposed to quartz during the period of investigation.

Anaq’s failure to answer CBP’s RFIs means Anaq has failed to the best of its ability in providing any evidence in this investigation. *See* adverse inference section above. Therefore, there is no supporting documentation on the record from the bathroom vanities’ manufacturer substantiating the composition, suppliers, and country of origin of the countertops. As a result, CBP is applying adverse inferences and relying on evidence on the Allegation and CBP’s own research that the countertops are made of quartz and therefore fall within the scope of the *Orders*.

Affiliations with China

Evidence on the record shows that both Anaq and Simpli Home have strong ties to China. Evidence on the record submitted in the Allegation shows Simpli Home imported “bathroom vanities” from Anaq in Vietnam.⁶⁵ Additionally, [Source Name] data shows that Anaq has been importing merchandise from China under HTS 681099 described as “artificial stone,”⁶⁶ that already has the sink holes cut into the stone, so that it can easily be attached to a wooden cabinet to make a bathroom vanity.⁶⁷ The scope of the *Orders* states:

In addition, quartz surface products are covered by the orders whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, non-subject merchandise, only the quartz surface products is covered by the scope.⁶⁸

The plain language of the scope makes it clear that the QSP countertops would be subject to the *Orders* despite it being attached the cabinetry of the bathroom vanity. Additionally, a comparison of product descriptions (e.g., 4ACVWNRW-48)⁶⁹ and the [Source Name] data show Anaq imported “artificial stone” with precut sink holes with the comparable dimensions to the countertop dimensions for its vanities.⁷⁰ Thus evidence on the record shows that Anaq has

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*, at 6 and Exhibit 3.

⁶⁶ “Artificial stone” is also known as “engineered stone” and “engineered quartz”/QSP would be considered a type of “engineered stone.”

⁶⁷ *Id.*, at 7 and Exhibit 7.

⁶⁸ *Id.*

⁶⁹ *See* MTF Screenshots, at 70.

⁷⁰ *See* Allegation, at Exhibit 7.

imported “engineered stone” from China during the POI that has the same dimensions as the vanities imported by Simpli Home into the United States.

Anaq’s production facilities for bathroom vanities were originally located in China and apparently shifted to Vietnam to avoid the *Orders* to avoid AD/CVD orders on wooden vanities imported from China.⁷¹ Anaq Vietnam was founded on July 23, 2019, by owner and general manager Guixiang Cao.⁷² CBP notes that this also occurred after the implementation of the QSP *Orders*.⁷³ Evidence on the record shows that Guixiang Cao is a Chinese national and that there is a Chinese management team running the facility in Vietnam.⁷⁴ Simpli Home states Anaq purchased its countertops from a Vietnamese supplier, who got the countertop from a Chinese producer, *i.e.*, Yunfu City Yuesheng Stone Co., Ltd.⁷⁵ Simpli Home said it purchased bathroom vanities from Anaq’s factory in China for many years and continued to purchase bathroom vanities from Anaq when it moved to Vietnam.⁷⁶ In its Supplemental Response, Simpli Home stated it stopped importing bathroom vanities from China once it was made aware of the AD/CVD orders on wooden vanities imported from China.⁷⁷

Substantial evidence on the record shows that Anaq is a Chinese-owned company, run by Chinese management, using imported “artificial stone” of Chinese-origin, and that it formerly operated in China. These facts support the possibility that transshipment or comingling of Chinese QSP occurred. Furthermore, Anaq failed to provide any evidence substantiating its and Simpli Home’s claims that the countertops it added to the Importer’s vanities were produced by Vietnamese suppliers and were not QSP. Due to Anaq’s failure to cooperate to the best of its ability in providing any evidence (*see* adverse inference section above), CBP is applying adverse inferences relying on evidence in the Allegation and CBP’s own research that the countertops that Anaq exported and the “artificial stone” Anaq imported into Vietnam from China were made of quartz such that they fall within the scope of the *Orders*. In addition, Simpli Home shows on the record that it has a consistent practice of referring to the countertops internally and externally as either “quartz” or “engineered quartz.” CBP is relying on the [Source Name] data, which shows Anaq has been importing “artificial stone” from China, to show that the QSP is of Chinese-origin.⁷⁸ Therefore, CBP determines that countertops imported by Simpli Home consisted of Chinese-origin QSP, which are covered by the *Orders* and the countertops were not of Vietnamese origin consisting of calcium carbonate, aka marble, that are not covered by the *Orders*.

⁷¹ Wooden cabinets and vanities from China were subject to AD / CVD case numbers A-570-106 and C-570-107, effective April 17 and 21, 2020.

⁷² *See* RFI Response, at Exhibit P.

⁷³ The Department of Commerce (Commerce) issued the *Orders* on QSP from China on May 11, 2019, showing that Anaq’s move was the result of the AD/CVD investigations that lead to the *Orders*. *See* RFI Response, at Exhibit P; *see also* the *Orders*.

⁷⁴ *See* RFI Response, at O, and P; *see also* Supplemental RFI Response, at Exhibit H.

⁷⁵ *See* RFI Response, at 24.

⁷⁶ *See* RFI Response, at 12.

⁷⁷ *See* Supplemental Response, at 12.

⁷⁸ *See* Allegation, at Exhibit 7.

Other Arguments

In its written arguments, Simpli Home argued that CBP has not met the requisite standard of proof to find evasion in this investigation.⁷⁹ Besides its arguments, discussed above, that its countertops were of Vietnamese origin and not made of quartz and its arguments that it used the term “quartz” generically in its internal records and marketing,⁸⁰ Simpli Home also argued that HTS 6810.99 is a “basket provision” for artificial stone, aka engineered stone, which has two sub-headings of “quartz” and “other.”⁸¹ Simpli Home states that this means that Vietnamese HTS 6810.99 includes products not covered by the U.S. AD/CVD orders on QSP and by itself does not mean Anaq imported QSP from China. Even though Simpli Home stated this in its written arguments, neither it nor Anaq provided evidence to support this claim, and neither provided evidence contrary to the [Source Name] data provided in the Allegation. As a result, and accounting for the application of adverse inferences, CBP finds that Simpli Home imported QSP of Chinese origin via Vietnam to the United States and evaded the payment of AD/CVD duties. This determination is supported, described in detail above, by evidence provided in the Allegation showing Anaq imported QSP into Vietnam from China, Anaq’s ties to China, and all of Simpli Home’s internal and external documents referring to the countertops as “engineered quartz” or “quartz.”

Determination as to Evasion

The previously discussed facts on the record establish that there is substantial evidence that Chinese-origin QSP were imported into the United States by evasion, specifically via transshipment through Vietnam. Additionally, in part by application of adverse inferences, relying on evidence provided by the Allegor in the Allegation, CBP determines that the countertops on the bathroom vanities imported by Simpli Home from Vietnam contained QSP of Chinese origin. Furthermore, evidence on the record indicates that Simpli Home entered the Chinese-origin QSP into the United States as type 01 entries and evaded the payment of AD/CVD duties on QSP from China, including by misrepresenting the QSP as Vietnamese in origin.⁸² The QSP that Simpli Home entered from Anaq during the period of investigation is subject to the AD/CVD rates on QSP from China.⁸³

Actions Taken Pursuant to the Affirmative Determination as to Evasion

In light of CBP’s determination that substantial evidence demonstrates that the Importer entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 USC 1517(d) and 19 CFR 165.28, CBP will suspend or continue to suspend the entries covered by this investigation, until instructed to liquidate. For those entries previously extended in accordance with Interim Measures, CBP will rate adjust and change those entries to

⁷⁹ See Simpli Home Written Arguments, at 4-5.

⁸⁰ *Id.*, at 5-6.

⁸¹ *Id.*, at 8-11.

⁸² Entry type “01” is the code that CBP requires importers use to designate a standard consumption entry that is not subject to AD/CVD duties. See <https://www.cbp.gov/trade/automated/ace-transaction-details>.

⁸³ The Importer’s QSP entries are subject to the “China-Wide Entity” rate of 326.15 percent for AD case A-570-084 and the “All-Others” rate of 45.32 percent for CVD case C-570-085. These two rates equal a combined rate of 371.47 percent. See the *Orders*.

type 03 and continue suspension until instructed to liquidate these entries. CBP will continue to evaluate the Importer's continuous bonds in accordance with CBP's policies and will continue to 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 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