



## PUBLIC VERSION

July 6, 2022

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Re: Notice of Initiation of Investigation and Interim Measures - EAPA Case 7705

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To the Counsel and Representatives of the above-referenced entities:

This letter is to inform you that U.S. Customs and Border Protection (CBP) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA), against Scioto Valley Woodworking, Inc. d/b/a Valleywood Cabinetry (Valleywood). CBP is investigating whether Valleywood evaded antidumping duty (AD) and countervailing duty (CVD) orders A-570-106 and C-570-107<sup>1</sup> on wooden cabinets and vanities and components thereof (cabinets and vanities) from the People's Republic of China (China) when importing cabinets and vanities into the United States. CBP has found that reasonable suspicion exists that Valleywood entered covered merchandise into the customs territory of the United States through evasion, CBP has imposed interim measures.<sup>2</sup>

### **Period of Investigation**

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation are those “entries of allegedly covered merchandise made within one year before the receipt of an allegation....”

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<sup>1</sup> *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22,126 (Dep't Commerce Apr. 21, 2020); *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order*, 85 FR. 22,134 (Dep't Commerce Apr. 21, 2020) (collectively, the *Orders*).

<sup>2</sup> See 19 USC 1517(e); see also 19 CFR 165.24.

Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States.”<sup>3</sup> CBP acknowledged receipt of the properly filed allegation against Valleywood on March 9, 2022.<sup>4</sup> The entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from March 9, 2021, through the pendency of this investigation.<sup>5</sup>

## **Initiation**

On March 30, 2022, the Trade Remedy Law Enforcement Directorate (TRLED), within CBP’s Office of Trade, initiated this investigation under EAPA as a result of an allegation submitted by the American Kitchen Cabinet Alliance (AKCA or Alleger)<sup>6</sup> concerning the evasion of AD/CVD duties by Valleywood.<sup>7</sup> In the Allegation, the AKCA asserts that Valleywood evaded the *Orders* by importing Chinese-origin cabinets and vanities into the United States that were transshipped through Malaysia.<sup>8</sup>

The AKCA submitted evidence reasonably available to it to substantiate its Allegation that Valleywood engaged in evasion of AD/CVD duties. The AKCA states that Cabinets to Go, one of largest importers and distributors of cabinets and vanities into the United States, filed a civil suit against supplier Alno<sup>9</sup> and importer Valleywood in the U.S. District Court for the Middle District of Tennessee.<sup>10</sup> The AKCA states that the Cabinets to Go lawsuit stems from Cabinets to Go discovering that Valleywood was involved in evasion activities.<sup>11</sup> The Alleger states Cabinets to Go provided AKCA evidence of Valleywood’s evasion of the *Orders*, including direct admissions of facts that would implicate Valleywood in an evasion scheme.<sup>12</sup> As a result of the lawsuit, the AKCA alleges that Valleywood imported Chinese-origin cabinets and vanities subject to the *Orders* that have been transshipped through Malaysia.<sup>13</sup>

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<sup>3</sup> See 19 USC 1517(a)(4); see also 19 CFR 165.1.

<sup>4</sup> See email “EAPA 7705 - Receipt of EAPA Allegation 7705: Receipt of Properly Filed Allegation,” dated March 9, 2022.

<sup>5</sup> See 19 CFR 165.2.

<sup>6</sup> The alleger is a trade or business association in which a majority of the members manufacture, produce, or wholesale a domestic like product in the United States; thus, pursuant to 19 CFR 165.1(4), the alleger meets the definition of an interested party that is permitted to submit an EAPA allegation.

<sup>7</sup> See CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7705 – Scioto Valley Woodworking, Inc.,” dated March 30, 2022 (Initiation Notice).

<sup>8</sup> See Letter from the AKCA, “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 Scioto Valley Woodworking, Inc. d/b/a Valleywood Cabinetry,” dated February 3, 2022 (Allegation).

<sup>9</sup> Alno Industry SDN BHD (Alno), the reported Malaysian manufacturer, is owned by the Chinese company Qingdao Haiyan Group Co., Ltd. (Haiyan). Valleywood is also a wholly owned sales and distribution division of Haiyan. *Id.*, at 5.

<sup>10</sup> See Allegation at 6. See also *Cabinets To Go, LLC v. Qingdao Haiyan Grp. Co.*, 3:21-cv-00711 (M.D. Tenn.).

<sup>11</sup> See Allegation at 6.

<sup>12</sup> *Id.*, at 7.

<sup>13</sup> *Id.*, at 1-2.

Furthermore, the Allegor asserts that in July 2021 one of Cabinets to Go quality control (QC) inspectors that it hires to be located on-site at Alno, [DESCRIPTION].<sup>14</sup> The quality control inspector obtained [DESCRIPTION] that shows the [SOURCE] that show a large number of cabinets and vanities in flatpacks.<sup>15</sup> The Allegor states that after Cabinets to Go received the information from the QC inspector, it asked Haiyan to certify that the products were made in Malaysia.<sup>16</sup> The Allegor avers that Cabinets to Go CEO, Jason Delves, received a phone call from two Haiyan representatives who stated that they could not certify the country of origin (COO) as Malaysia because the products and/or parts thereof were COO China.<sup>17</sup>

As a result of the aforementioned information, the Allegor states that Cabinets to Go filed a breach of contract and breach of warranty lawsuit against Valleywood and Haiyan’s other subsidiaries.<sup>18</sup> During the course of the lawsuit, Valleywood and Haiyan produced a spreadsheet that indicates specifically which products\* were produced in China instead of Malaysia.<sup>19</sup> The Allegor further states that approximately [ITEM] reported as COO Malaysia were actually COO China.<sup>20</sup>

The Allegor further avers that shipping data from [SOURCE] corroborate the information provided by Cabinets to Go.<sup>21</sup> The AKCA alleges that the [SOURCE] data show that Valleywood imported cabinets and vanities directly from Qingdao Haiyan Brouot Household Co.,<sup>22</sup> which is located in China, prior to implementation of the *Orders*.<sup>23</sup> The AKCA further alleges that Qingdao Haiyan Brouot Household Co. is located at the same address as, and likely the same company as another manufacturer that Valleywood imported from, *i.e.*, Qingdao Haiyan Drouot Woodworking Co.<sup>24</sup> The AKCA claims that this means that Haiyan and Valleywood worked together to evade the AD/CVD duties by claiming the cabinets and vanities in question were from Malaysia.<sup>25</sup> It is the AKCA’s contention that the timing and increase in volume of Malaysia’s shipments of cabinets and vanities to the United States directly coincides with the implementation of the *Orders* in 2020.<sup>26</sup> For example, the AKCA states that exports of

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

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

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*, at 7-8.

<sup>18</sup> *Id.*, at 8.

\* Note, in the initiation notice it was erroneously [DESCRIPTION]

<sup>19</sup> *Id.*, at 8 and 12.

\*\* Note, in the initiation notice it was erroneously [DESCRIPTION]

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*, at 8.

<sup>22</sup> A Chinese subsidiary of Haiyan.

<sup>23</sup> *Id.*, at 8 and Exhibit 5.

<sup>24</sup> *Id.*, at 8 and Exhibit 8.

<sup>25</sup> *Id.*, at 8.

<sup>26</sup> *Id.*, at 9.

cabinets and vanities from Malaysia to United States in 2019 was \$49,619,892, while in 2020 the value significantly increased to \$348,425,776.<sup>27</sup>

Therefore, the AKCA concludes that the evidence reasonably suggests that Valleywood is transshipping its Chinese-origin cabinets and vanities through Malaysia to the United States to avoid paying AD/CVD duties. AKCA also notes that even if Valleywood engaged in minimal processing on cabinets and vanities they would still be subject to the *Orders*.

### *Initiation Assessment*

TRLED will initiate an investigation if it determines that “{t}he information provided in the allegation ... reasonably suggests that the covered merchandise has been entered for consumption into the customs territory of the United States through evasion.”<sup>28</sup> Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”<sup>29</sup> Thus, the allegation must reasonably suggest not only that merchandise subject to an AD and/or CVD order was entered into the United States by the importer through evasion, but that such entry was made by a material false statement or act, or material omission, which resulted in the reduction or avoidance of applicable AD and/or CVD cash deposits or other security.

In assessing the basis for the Allegation, CBP finds that the information submitted by the AKCA reasonably suggests that Valleywood entered merchandise covered by the *Orders* A-570-106 and C-570-107 into the customs territory of the United States through evasion. Specifically, information provided by the Alleger, specifically information obtained through the on-going civil suit against Valleywood shows that the company was transshipping cabinets and vanities from China through Malaysia during the period of investigation.<sup>30</sup> Additionally, in the lawsuit, Valleywood admitted directly to a transshipment scheme. Furthermore, commercial data reasonably available to the AKCA and submitted to CBP shows specifically that Valleywood imported cabinets from Malaysia into the United States and generally that there was a significant increase in Malaysian exports of cabinets and vanities to the United States after the imposition of the *Orders*. Consequently, TRLED initiated an investigation pursuant to 19 USC 1517(b)(1) and 19 CFR 165.15.<sup>31</sup>

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<sup>27</sup> *Id.*, at 9 and Exhibit 14.

<sup>28</sup> See 19 CFR 165.15(b); see also 19 USC 1517(b)(1).

<sup>29</sup> See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A).

<sup>30</sup> The period of investigation is March 9, 2021, through the pendency of the investigation.

<sup>31</sup> See 19 CFR 165.11; see also 19 CFR 165.15(2). See Initiation.

## Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD orders was entered into the United States through evasion. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because there is a reasonable suspicion that the importer entered covered merchandise into the United States through evasion by means of transshipment through Malaysia.<sup>32</sup>

### *Other Record Evidence*

On April 16, 2022, as part of the EAPA investigation process, CBP issued a CBP Form 28, Request for Information (CF28) questionnaire to Valleywood concerning certain entries.<sup>33</sup> Valleywood submitted its CF28 response on June 1, 2022.<sup>34</sup> In its CF28 response, Valleywood indicated that it purchased cabinets and vanities that [COMPANY]-exported from Malaysia. This information aligns with the Allegation.<sup>35</sup> In the CF-28 Valleywood claimed that [COMPANY] produced all the cabinets and vanities that exported to the United States.<sup>36</sup> This information runs contrary to what company officials claimed in Valleywood's civil suit, where they admitted to transshipping Chinese-origin cabinets and vanities and its on-going litigation with Cabinets to Go where it falsely declared COO Malaysia<sup>37</sup> The shipments at issue in the litigation were purchased between February and March 2021 and the PO date for the entry requested in the CF-28 was [DATE ], which means the coincide with each other and within the period of investigation.<sup>38</sup> As such, for those reasons and for the reasons discussed below, CBP finds Valleywood's CF-28 claims that all its cabinets and vanities are made in Malaysia questionable and possibly fraudulent.

On June 24, 2022, CBP added a memorandum to the administrative record containing a copy of Valleywood's product catalog from Valleywood's website.<sup>39</sup> The product catalog shows that Valleywood's SKUs line up with what products found on its purchase orders (POs) invoices in the CF-28 and Allegation show that the last two or three digits of the SKU generally relate to finishes. In the Allegation, Valleywood and Haiyan provided [ITEM] that indicates specifically which [DESCRIPTION ].<sup>40</sup>

The evidence provided by the Alleger shows that approximately [ # ] reported as COO Malaysia were actually COO China.<sup>41</sup> Analysis shows that [ DESCRIPTION

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<sup>32</sup> See 19 CFR 165.24(a).

<sup>33</sup> See CF-28 sent to Valleywood, dated April 16, 2022 (CF-28).

<sup>34</sup> See Valleywood Response to CF-28, dated June 1, 2022 (CF-28 Response).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*, at

<sup>37</sup> See CF28 response. See also Memorandum to the File, "Valleywood's Product Catalog," dated June 24, 2022

<sup>38</sup> See CF28 response. See also Allegation, at Exhibit 4.

<sup>39</sup> See Memorandum to the File, "Valleywood's Product Catalog," dated June 24, 2022.

<sup>40</sup> See Allegation, at 8 and 12.

<sup>41</sup> *Id.*

[ **ITEM** ], are typically made in China and not at Alno's Malaysia factory. Furthermore, the timing of the disclosure of COO provided in the allegation February and March 2021,<sup>43</sup> is after the PO dates of the entry requested in the CF-28, *i.e.*, [ **DATE** ].<sup>44</sup> A comparison of SKUs listed in the CF-28 response and the spreadsheet submitted with the Allegation,<sup>45</sup> finds [# ] out of the [# ] SKUs known to be of [ **DESCRIPTION** ].<sup>46</sup> Taken together, this evidence supports a reasonable suspicion that SKUs reported in the CF-28 POs were not actually [ **DESCRIPTION** ] like those reported to be [ **DESCRIPTION** ] in the spreadsheet submitted with the Allegation..

### *Enactment of Interim Measures*

Based on the record evidence—Valleywood's on-going civil suit with Cabinets to Go where they admitted to transshipping and the [ **DESCRIPTION** ] found in the CF-28 response—CBP has determined that reasonable suspicion exists that certain cabinets and vanities produced by Alno and entered into the customs territory of the United States by Valleywood are transshipped from China, and thus, are evading the *Orders* on cabinets and vanities from China. Therefore, TRLED is imposing interim measures pursuant to this investigation.<sup>47</sup> Specifically, in accordance with 19 USC 1517(e)(1)-(3), CBP shall:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after March 30, 2022, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under section 504(b), extend the period for liquidating each unliquidated entry of such covered merchandise that entered before the date of the initiation of the investigation; and
- (3) pursuant to the Commissioner's authority under section 623, take such additional measures as the Commissioner determines necessary to protect the revenue of the United States, including requiring a single transaction bond or additional security or the posting of a cash deposit with respect to such covered merchandise.<sup>48</sup>

In addition, CBP will require live entry and reject any non-compliant entry summaries, as well as require re-filing of entries that are within the entry summary rejection period. CBP will also evaluate Valleywood's continuous bonds to determine sufficiency. Finally, CBP may pursue additional enforcement actions, as provided by law, consistent with 19 USC 1517(h).

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<sup>42</sup> See Appendix for list of [ **DESCRIPTION** ]. The last three digits that appear to relate to the cabinets and vanities finish are left off.

<sup>43</sup> See Allegation, at 6-8 and Exhibit 4.

<sup>44</sup> See CF-28 Response, at 16

<sup>45</sup> See Allegation at Exhibit 12.

<sup>46</sup> The SKU's found in the CF-28 are: [ **DESCRIPTION** ]. See a comparison of the CF-28 Response to the Allegation, at Exhibit 12.

<sup>47</sup> See 19 USC 1517(e); see also 19 CFR 165.24.

<sup>48</sup> See also 19 CFR 165.24.

Any future submissions or factual information that you submit to CBP pursuant to this EAPA investigation must be made electronically using EAPA's case management system (CMS) at <https://eapallegations.cbp.gov/>. Please provide a business confidential and public version to CBP and serve the public version on the parties to this investigation (*i.e.*, to the parties identified at the top of this notice). Public versions of administrative record documents will be available via the EAPA Portal at <https://eapallegations.cbp.gov/>.<sup>49</sup>

Should you have any questions regarding this investigation, you may contact us at [eapallegations@cbp.dhs.gov](mailto:eapallegations@cbp.dhs.gov) with "EAPA Case 7705" in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP's website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,



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

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<sup>49</sup> See 19 CFR 165.4; *see also* 19 CFR 165.23(c) and 19 CFR 165.26.

Appendix: SKUs known to be from China [

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