



**PUBLIC VERSION**

April 25, 2022

**EAPA Cons Case Number 7614**

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**RE: Notice of Final Determination as to Evasion**

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

After an examination of the record in Enforce and Protect Act (“EAPA”) Consolidated Investigation 7614, U.S. Customs and Border Protection (“CBP”) has determined there is substantial evidence that ZL Center, LLC (“ZL Center”), USGS, Inc. (“USGS”), JGS Import, Inc (“JGS”), and US Sunergy Corp. (“US Sunergy”) 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”)<sup>1</sup> by entering

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<sup>1</sup> See *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order*, 85 FR 22126 (U.S. Department Commerce, Apr. 21, 2020) and *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order*, 85 FR 22134 (U.S. Department of Commerce Apr. 21, 2020), 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

merchandise covered under those orders into the customs territory of the United States through evasion. Substantial evidence demonstrates that imports of Chinese-origin WCV were misrepresented with the country of origin as Malaysia. As a result, no cash deposits were applied to the merchandise at the time of entry.

## Background

On May 28, 2021, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, acknowledged receipt of the properly filed allegations against ZL Center, USGS, JGS, and US Sunergy by MasterBrand Cabinets, Inc. (“MasterBrand”), a domestic producer of WCV.<sup>2</sup> TRLED found the information provided in the allegation reasonably suggested that the importers entered covered merchandise into the customs territory of the United States through evasion. Consequently, CBP initiated an investigation with respect to ZL Center, USGS, JGS, and US Sunergy on June 22, 2021, pursuant to Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015.<sup>3</sup>

After evaluating all of the information on the record at the time, on September 20, 2021, TRLED determined that reasonable suspicion existed that WCV imported into the United States, reported as Malaysian in origin, was in fact manufactured in China.<sup>4</sup> Specifically, TRLED based its finding of reasonable suspicion on information provided in the allegation and the failure of ZL Center, USGS, JGS, and US Sunergy to provide requested production records demonstrating their imported merchandise was produced by the claimed manufacturer, Polygonplus Industry Sdn Bhd (“Polygonplus”) in Malaysia.<sup>5</sup>

On September 27, 2021, TRLED served the notice of the initiation of investigation and interim measures (“NOI”) to ZL Center, USGS, JGS, and US Sunergy with a request for acknowledgement of receipt.<sup>6</sup> ZL Center did not acknowledge the initiation of the EAPA investigation. CBP made two additional attempts to notify the importer with no response.<sup>7</sup> On

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on or after October 9, 2019, the respective publication dates of the affirmative preliminary determinations in the U.S. Department of Commerce investigations.

<sup>2</sup> See the May 28, 2021, emails entitled “Receipt of EAPA Allegation 7614: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (“ZL Center”),” “Receipt of EAPA Allegation 7615: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (“USGS”),” “Receipt of EAPA Allegation 7616: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (“JGS”),” and “Receipt of EAPA Allegation 7617: Wooden Cabinets and Vanities and Components Thereof from China through Malaysia (“US Sunergy”),” respectively.

<sup>3</sup> See the June 22, 2021, memoranda entitled “Initiation of Investigation for EAPA Case Number 7614 – ZL Center, LLC (“ZL Center Initiation”), “Initiation of Investigation for EAPA Case Number 7615 – USGS, Inc. (“USGS Initiation”), “Initiation of Investigation for EAPA Case Number 7616 – JGS Import, Inc (“JGS Initiation”), and “Initiation of Investigation for EAPA Case Number 7617 – US Sunergy Corp. (“US Sunergy Initiation”), collectively referred to as the “Initiation Memoranda.”

<sup>4</sup> See e.g., the September 20, 2021, email entitled “Internal CBP Email of Determination and Interim Measures.”

<sup>5</sup> See “Notice of Initiation of Investigation and Interim Measures: Consolidated EAPA Case 7614,” dated September 27, 2021 (“NOI”) at 1 (“Based on a review of available information, CBP has determined that there was reasonable suspicion of evasion of AD/CVD duties by ZL Center, USGS, JGS, and US Sunergy, and therefore, CBP has imposed... interim measures....”).

<sup>6</sup> See NOI email.

<sup>7</sup> ZL Center did not acknowledge the initiation of the EAPA investigation forwarded on September 27, 2021. CBP again notified ZL Center by email on October 4, 2021, at 3:32 PM and on October 7, 2021, at 2:20 PM. On October 14, 2021, ZL Center was informed by email that failure to cooperate with CBP’s request by October 18, 2021, may result in the application of adverse inferences.

July 8, 2021, CBP issued a request for information to ZL Center. ZL Center's broker provided an entry summary document with no input from the importer.<sup>8</sup>

USGS responded to a final attempt for a response to the issuance of the NOI on October 18, 2021.<sup>9</sup> On July 8, 2021, CBP issued a request for information to USGS. The company secured counsel to assist its response and was granted a 30-day extension until September 7, 2021. USGS submitted a timely response on September 7, 2021.<sup>10</sup>

On October 6, 2021, JGS acknowledged the NOI.<sup>11</sup> On November 19, 2021, CBP requested that JGS provide business confidential and public versions of its Customs Form ("CF") 28 response by November 26, 2021.<sup>12</sup> The requested documents were not received from JGS.

US Sunergy acknowledged the issuance of the NOI on September 28, 2021.<sup>13</sup>

As summarized in the September 27, 2021, NOI, the allegation contained evidence that WCV merchandise imported by ZL Center, USGS, JGS, and US Sunergy originated from China and was transshipped through Malaysia. Specifically, the evidence consisted of:

- Aggregate trade data showing surges of WCV (with the same tariff classifications as the subject merchandise) in overall imports into Malaysia from China, and into the United States from Malaysia WCV following the imposition of provisional measures as a result of the Department of Commerce's ("Commerce") affirmative preliminary determination in its CVD investigation of WCV from China.
- Polygonplus was incorporated in March 2020 – the month immediately following publication of Commerce's final affirmative AD and CVD determinations and one month before the Orders were published.<sup>14</sup> According to records from the Companies Commission of Malaysia, Polygonplus' nature of business included the installation of doors, windows, shop fittings and furniture, and the manufacturing of glass products.<sup>15</sup>
- Available Google Maps pictures of Polygonplus locations did not appear to show any manufacturing facilities.<sup>16</sup> CBP conducted various searches of the address for Polygonplus and found the same imagery that showed no indication of manufacturing.
- An affidavit from a market researcher citing statements by:

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<sup>8</sup> See NOI at 5.

<sup>9</sup> See October 18, 2021, email from USGS.

<sup>10</sup> See September 7, 2021, USGS CF 28 Response.

<sup>11</sup> See October 6, 2021, email from JGS.

<sup>12</sup> See November 19, 2021, email to JGS.

<sup>13</sup> See September 28, 2021, email from US Sunergy.

<sup>14</sup> See March 12, 2021, EAPA allegation against US Sunergy at 8 and 9.

<sup>15</sup> *Id.* and see February 10, 2022, Photos from Malaysian onsite visit.

<sup>16</sup> See NOI at 4.

- Polygonplus [( name and title )] openly offering assistance with transshipment of cabinets produced in China.
- Foreign market research indicated that Polygonplus was a “fronting company.”
- [ name ] six or seven different companies that may be used for transshipment activities [ statement ] transships around [ quantity ] kitchen cabinets [ duration ].<sup>17</sup>

***Request for Information:***

After the issuance of the NOI, CBP, pursuant to 19 CFR § 165.23, sent requests for information (“RFIs”) to ZL Center, USGS, JGS, US Sunergy and Polygonplus asking for information about corporate structure and affiliations, accounting and financial practices, and sales-specific order, sales, transport, and production details.

ZL Center

CBP issued an RFI to ZL Center on October 22, 2021, with a response due by November 19, 2021.<sup>18</sup> ZL Center did not submit a response by the deadline. On December 1, 2021, CBP gave ZL Center another opportunity to submit its response, this time with a deadline of December 17, 2021.<sup>19</sup> ZL Center was advised that failure to respond would result in the application of adverse inferences.<sup>20</sup> Again, ZL Center did not submit a response.

USGS

CBP issued an RFI to USGS on October 22, 2021, with a November 19, 2021 due date.<sup>21</sup> Counsel for USGS reported that the company would not submit a response<sup>22</sup> because it dissolved in May 2021.<sup>23</sup> On November 20, 2021, CBP gave USGS another opportunity to submit its response, this time with a deadline of November 29, 2021.<sup>24</sup> Counsel for USGS was advised that failure to respond would result in the application of adverse inferences.<sup>25</sup> Again, USGS did not submit a response. On December 1, 2021, CBP confirmed that the lack of response would result in CBP exercising its authority to apply inferences adverse to the interests of USGS.<sup>26</sup>

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<sup>17</sup> See NOI at 4. See, e.g., US Sunergy Allegation at Exhibit 7.

<sup>18</sup> See October 22, 2021, RFI issued to ZL Center.

<sup>19</sup> See December 1, 2021, email from TRLED to ZL Center.

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

<sup>21</sup> See October 22, 2021, RFI issued to USGS.

<sup>22</sup> See November 19, 2021, email from attorney.

<sup>23</sup> See September 22, 2021, “Illinois Secretary of State USGS, Inc- PD”.

<sup>24</sup> See November 20, 2021, email from TRLED to USGS. CBP explained that a party to the investigation cannot elect to not participate in an investigation after the NOI issued.

<sup>25</sup> *Id.*

<sup>26</sup> See December 1, 2021, email from TRLED to USGS.

## JGS

CBP issued an RFI to JGS on October 22, 2021, with a response due by November 19, 2021.<sup>27</sup> JGS did not submit a response by the deadline. On December 1, 2021, CBP gave JGS another opportunity to submit its response to the RFI in addition to the previous request for treatment of the CF 28 documents, this time with a deadline of December 17, 2021.<sup>28</sup> JGS was advised that failure to respond would result in the application of adverse inferences.<sup>29</sup> Again, JGS did not submit a response.

## US Sunergy

CBP issued an RFI to US Sunergy on October 22, 2021, with a response due by November 19, 2021.<sup>30</sup> While US Sunergy's response was filed timely, it was rejected for improper bracketing.<sup>31</sup> The amended deadline was December 08, 2021. On January 10, 2022, CBP issued a supplemental request for information to US Sunergy,<sup>32</sup> to which the importer responded on January 26, 2022.<sup>33</sup>

## Polygonplus

CBP issued an RFI to Polygonplus' address in Malaysia on October 28, 2021, via FedEx, with a response due by November 25, 2021.<sup>34</sup> Polygonplus did not submit a response.

### ***Written Arguments:***

On February 04, 2022, CBP extended the statutory deadline to submit the written arguments and the responses until February 25, 2022, with responses to written arguments due March 11, 2022.<sup>35</sup> Despite the extension, on February 7, 2022, MasterBrand submitted written arguments.<sup>36</sup> None of the importers submitted responses to the written arguments submitted by Masterbrand on March 11, 2022. Neither ZL Center, USGS, JGS, or US Sunergy submitted written arguments on February 25, 2022.<sup>37</sup>

### **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

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<sup>27</sup> See October 22, 2021, RFI issued to JGS.

<sup>28</sup> See December 1, 2021, email from TRLED to JGS.

<sup>29</sup> *Id.*

<sup>30</sup> See October 22, 2021, RFI issued to US Sunergy.

<sup>31</sup> See US Sunergy Response.

<sup>32</sup> See Supplemental RFI US Sunergy.

<sup>33</sup> See Supplemental Response.

<sup>34</sup> See “RFI Polygonplus (Cons Case 7614) BC” issued to Polygonplus dated October 28, 2021. See “FedEx Receipt Correspondence to Polygonplus-(7614) PD” dated October 28, 2021.

<sup>35</sup> See February 22, 2022, email extension of written arguments.

<sup>36</sup> See February 7, 2022, Written Argument Submission by MasterBrand (“MasterBrand Written Argument”).

<sup>37</sup> See February 22, 2022, email extension of written arguments.

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.”<sup>38</sup> 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.

### *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 the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion....<sup>39</sup>

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.<sup>40</sup>

CBP finds that ZL Center, USGS, JGS, and Polygonplus failed to cooperate by not acting to the best of the party or person’s ability to comply with a request for information. As detailed above, ZL Center, USGS, JGS, and Polygonplus failed to respond to CBP’s October 22, 2021, requests for information. Specifically, counsel for USGS stated “...USGS has communicated that it will not be making a submission in this proceeding as it has dissolved several months ago and will not make a responsive submission.”<sup>41</sup> Additionally, the participation of Polygonplus, the reported manufacturer, through responses to CBP’s RFIs, would have been crucial to CBP’s analysis of source documents substantiating the production and the country of origin of imported products. Such cooperation from Polygonplus could have supplied CBP with additional information to help inform CBP’s determination, but Polygonplus failed to act.

Because Polygonplus did not submit a RFI response, this impacts CBP’s ability to collect vital information from the manufacturer in order to substantiate any claim that the subject wooden cabinets and vanities were not covered under the *Orders*. CBP has no evidence on the record from the manufacturer that refutes the Alleger’s claim that ZL Center, USGS, JGS, and US Sunergy imported WCV from China and the evidence on the record amount to reasonable suspicion. Polygonplus could have provided vital information (*e.g.*, production records and staffing documentation) that could help determine production capabilities. However, because of

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<sup>38</sup> See 19 CFR § 165.1.

<sup>39</sup> See 19 U.S.C. § 1517(c)(3) (statutory authority for this regulation).

<sup>40</sup> See *Id.* § 1517(c)(3)(B)(statutory authority for this regulation).

<sup>41</sup> See November 19, 2021, email letter from USGS.

the importers' and the foreign manufacturer's refusal to cooperate with the investigation to the best of their ability, CBP could not refute evidence provided by the Alleger that the imported wooden cabinet and vanities were transshipped. Therefore, due to ZL Center, USGS, JGS, and Polygonplus' documented failure to participate, CBP finds that ZL Center, USGS, JGS, and Polygonplus did not cooperate to the best of its ability in this EAPA investigation.

The RFIs issued to the importers and manufacturer requested information relating to corporate structure, affiliations, accounting and financial documentation, and sales-specific order, sales, transport, and product details. Such records and documentation are critical for evaluating the validity of entry information provided by importers and to determine the country of origin of the WCV. Neither importers ZL Center, USGS, JGS, nor the manufacturer Polygonplus, submitted RFI responses. Pursuant to 19 USC § 1517(c)(3) and 19 CFR § 165.6, CBP may apply an adverse inference if the party to the investigation that filed an allegation, 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. In applying an adverse inference against an eligible party, CBP may also select from the facts otherwise available to make a final determination as to evasion pursuant to 19 USC § 1517(c)(1)(A) and 19 CFR § 165.27.<sup>42</sup>

Moreover, an adverse inference may be used with respect to U.S. importers, foreign producers, and manufacturers “without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought....”<sup>43</sup> There is no factual basis for concluding that ZL Center, USGS, JGS, and Polygonplus were unable to provide responses to its RFIs. Therefore, CBP finds that neither ZL Center, USGS, JGS, nor Polygonplus cooperated to the best of their ability in failing to respond to CBP's RFIs, and thus the application of adverse inferences is appropriate.

The application of such adverse inferences, in conjunction with the evidence on the record that Polygonplus was incorporated in March 2020 to install doors, windows, manufacture glass products, *etc.*, and not WCV,<sup>44</sup> the decrease of US imports of WCV from China and the significant rise of imports from Malaysia after the imposition of Commerce's preliminary determination;<sup>45</sup> the information provided in the allegation's affidavit that outlines the transshipment scheme by the self-proclaimed principal of Polygonplus who has a series of companies that are used to misrepresent Malaysia as the country of origin for its WVC,<sup>46</sup> and failure of the importers to provide production documentation in CF 28 responses, justifies a determination of evasion with respect to ZL Center, USGS, JGS, and Polygonplus.

### ***US Sunergy***

US Sunergy did submit a response to CBP's RFI.<sup>47</sup> The response acknowledged that Polygonplus was its only supplier of WCV during the period of investigation (POI). US Sunergy also provided in the response email correspondence with shipping documents (*i.e.*, bill

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<sup>42</sup> See 19 CFR § 165.6(a).

<sup>43</sup> See 19 USC § 1517(c)(3)(B).

<sup>44</sup> See NOI at 3.

<sup>45</sup> *Id.*

<sup>46</sup> See NOI at 4.

<sup>47</sup> See US Sunergy RFI at 2, Letter from CBP to US Sunergy Corp., re: EAPA Cons. 7614 Request for Information (Oct. 22, 2021) at 9.

of lading numbers) between the purchasing agent and the broker of US Sunergy.<sup>48</sup> However, the RFI response did not contain critical manufacturing information to demonstrate that WCV was produced in Malaysia by Polygonplus. US Sunergy stated it uses a Chinese purchasing agent to certify the actual manufacturer producing its merchandise.<sup>49</sup> US Sunergy indicated that it relied heavily on a non-exclusive purchasing agent's experience to communicate with Polygonplus, and yet US Sunergy also claimed to be "fully aware" of its manufacturer's ability to make and declare exactly what US Sunergy orders, purchases and receives.<sup>50</sup> The purchasing agent, who is physically located in China, is the single point of contact for the importer, and that agent relies on unknown contacts within Malaysia to report Polygonplus' manufacturing capabilities.<sup>51</sup> US Sunergy placed its reliance of all of its imports of WCV in the hands of a purchasing agent it never met, and physically at Polygonplus where they have not visited because of the pandemic.

CBP is deeply concerned that US Sunergy has an inaccurate understanding of Polygonplus' manufacturing capabilities because US Sunergy has never visited Polygonplus' manufacturing facility to assess the facility's suitability for production.<sup>52</sup> Furthermore, photographs of the location purported to be the address of Polygonplus taken by CBP partners in Malaysia show no signs of manufacturing.<sup>53</sup> Because of this, CBP doubts the reliability of the purchasing agent's claims that Polygonplus has the capability to manufacture the reported volume of WCV. To underscore CBP's position, when asked for correspondences between the purchasing agent and US Sunergy to detail the beginning of their business transactions, US Sunergy claimed that the purchasing agent does not report her sources.<sup>54</sup> This limited and controlled sharing of transactional information does not support US Sunergy's claim of knowledge of Polygonplus' manufacturing of its imports to the U.S. The purchasing agent does not report her sources and is evasive to CBP's RFI. This is problematic to prove knowledge of the manufacturer's capabilities, and further nonresponsive highlights a lack of compliance to CBP's investigation.

### ***Polygonplus***

Polygonplus failed to provide a RFI response that could have served to corroborate US Sunergy's decision<sup>55</sup> to rely solely on its purchasing agent. Contrary to the purchasing agent and US Sunergy's position, photographic evidence of the alleged Polygonplus facility in Malaysia acquired during the course of the investigation, demonstrated that Polygonplus lacks facilities to manufacture the merchandise involved in the investigation.<sup>56</sup>

Additionally, USGS, JGS, and US Sunergy submitted photographs of the Polygonplus' facility addressed, No. 18 Jalan Sri Haneco 1/12, in its CF 28 responses.<sup>57</sup> On August 3, 2021, JGS' response contained a photograph of the front of an apparent manufacturing facility with

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<sup>48</sup> *Id* at Exhibit 1.

<sup>49</sup> *See* US Sunergy RFI at 3.

<sup>50</sup> *See* US Sunergy RFI at 16.

<sup>51</sup> *Id* at 11.

<sup>52</sup> *Id* at 4.

<sup>53</sup> *See* February 10, 2022, Email of Photographs in Malaysia.

<sup>54</sup> *See* January 26, 2022, US Sunergy Supplemental RFI Response at 8.

<sup>55</sup> *See* Polygonplus RFI.

<sup>56</sup> *See* email of photographs in Malaysia, April 1, 2021, and July 8, 2021, regarding Polygonplus Industry Name Search.

<sup>57</sup> *See* NOI at 5 -7.



Polygonplus' name appearing to be photoshopped on the building.<sup>58</sup> On August 11, 2021, US Sunergy submitted in its RFI response with the same photoshopped picture.<sup>59</sup> On September 7, 2021, USGS submitted the same photo.<sup>60</sup>

The allegation asserts that Polygonplus does not have the manufacturing facilities required to produce WCV.<sup>61</sup> MasterBrand included Google Map images of Polygonplus' address at No. 18 Jalan Sri Haneco 1/12 from February 23, 2021, and March 3, 2021.<sup>62</sup> The images showed a gated building with no manufacturing activity. Google Map images of the second address at No. 88 Lebu Turi dated February 24, 2021, and images from March 3, 2021, showed buildings with stacked billboards advertising multiple business.<sup>63</sup> None of the images identified Polygonplus' name on any of the billboards and again no manufacturing facilities were evident.<sup>64</sup>

On April 1, 2021, CBP compared its Google Map image to the images of No. 18 Jalan Sri Haneco 1/12 from the allegation<sup>65</sup> and there was no evidence of production. On July 8, 2021, another Google image was added to the record to further confirm no manufacturing at the location.<sup>66</sup> On February 5, 2022 CBP's government partners stationed in Malaysia took photographs of Polygonplus' manufacturing facilities.<sup>67</sup> Those photographs further demonstrated that the facilities found at the addresses for Polygonplus did not resemble manufacturing facilities.<sup>68</sup> Polygonplus' address at No. 18 Jalan Sri Haneco 1/12 appeared to be located in an abandoned area with empty gated surrounding businesses.<sup>69</sup> The second address at No. 88 Lebu Turi was situated in a large commercial complex with many business signs on the balconies.<sup>70</sup> The layout of these businesses did not allow space for manufacturing of WCV by Polygonplus. The photographs were consistent to the images captured by Google Maps from the allegor and CBP.

The application of such adverse inferences, in conjunction with the aforementioned evidence of transshipment, trade patterns, information provided in an affidavit in the allegation, and failure of the importers to provide full production documentation in CF 28 responses, justifies a final determination of evasion with respect to ZL Center, USGS, JGS, and Polygonplus.

### ***Arguments by MasterBrand***

MasterBrand argues that information on the record demonstrates there is substantial evidence of evasion by the importers,<sup>71</sup> and that CBP should make adverse inferences with respect to ZL Center, USGS, JGS, and Polygonplus because of their failure to cooperate in the investigation to

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<sup>58</sup> *Id* at 6.

<sup>59</sup> *Id* at 7.

<sup>60</sup> *Id* at 5.

<sup>61</sup> See allegation at Exhibit 8 page 78 -84

<sup>62</sup> *Id* at 78 and 80.

<sup>63</sup> *Id* at 82 and 84.

<sup>64</sup> *Id*.

<sup>65</sup> See April 1, 2021, Polygonplus Industry Name Search.

<sup>66</sup> See July 8, 2021, Polygonplus Industry Name Search.

<sup>67</sup> See February 5, 2022, Email of Photographs of Polygonplus addresses in Malaysia.

<sup>68</sup> *Id*.

<sup>69</sup> *Id*.

<sup>70</sup> *Id*.

<sup>71</sup> See MasterBrand Written Argument at 12-14.

the best of their abilities.<sup>72</sup> None of the importers submitted written arguments despite the extension of the statutory deadline.<sup>73</sup>

MasterBrand maintains the argument made in its allegation that trade data demonstrated a noticeable decrease in U.S. imports of WCV from China since the imposition of the Commerce's affirmative preliminary determination in the underlying CVD investigation.<sup>74</sup> Evidence provided by this allegor also indicated a substantial increase of Malaysian-origin WCV imports in the same timeframe of the decrease of Chinese imports supports evidence of evasion. MasterBrand argues that companies with the ability to produce the reported amounts of WCV that explain the increase in exports of merchandise from Malaysia, do not exist.<sup>75</sup> During the investigation, CBP obtained photographic images of the alleged Polygonplus locations in Malaysia.<sup>76</sup> Based on the photographs, Polygonplus' business addresses show no evidence of operational facilities to manufacture WCV.<sup>77</sup> CBP finds the photographs establish that Polygonplus does not have the facilities needed to house the assorted machinery to make WCV and the claims that US Sunergy's only supplier is Polygonplus as unreliable.

MasterBrand further contends that ZL Center, USGS, JGS, and US Sunergy did not fully respond to the CBP issued CF 28.<sup>78</sup> The RFIs included invoices, packing slips, bills of lading, sources of raw materials, and production records related to entries from Malaysia during the POI.<sup>79</sup> CBP finds that ZL Center did not cooperate with the investigation to the best of its ability when ZL Center's broker only provided an entry summary document with no input from the importer.<sup>80</sup> The company did not respond to CBP or its own broker's request to participate in the investigation. As a practice, JGS uses proforma invoices as an initial order document, rather than purchase orders or contracts, which are standard industry practice.<sup>81</sup> CBP finds that this practice of not clearly established payment terms allows for amounts on the proforma invoice to differ from the actual invoice.<sup>82</sup> This is imprecise financial data and is subject to discrepancies. The production records included information for only one cabinet portion.<sup>83</sup> Moreover, the photograph of the of the exterior of the alleged Polygonplus facility that USGS, JGS, and US Sunergy provided in their CF 28 responses had a company label appearing to be photoshopped onto the building.<sup>84</sup> CBP agrees with MasterBrand's position that the provided photograph is further inconsistent with the Google Map image corresponding to the address listed for Polygonplus.<sup>85</sup>

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<sup>72</sup> *Id.* at 15-18.

<sup>73</sup> See February 22, 2022, email extension of written arguments.

<sup>74</sup> See *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China*, 84 Fed. Reg. 39,798 (Dep't Commerce Aug. 12, 2019) (prelim. affirm. countervailing duty deter., and alignment of final deter. with final antidumping duty deter.).

<sup>75</sup> See, e.g., *id.* at 8.

<sup>76</sup> See February 5, 2022, Photos from Polygonplus addresses.

<sup>77</sup> *Id.*

<sup>78</sup> See September 27, 2021, Notice of Initiation of Investigation and Interim Measures: Consolidated EAPA Case 7614.

<sup>79</sup> See CF 28 *id.*

<sup>80</sup> See July 8, 2021, ZL Center entry documents, "CF28-ES [ ID # ]3495 (7614) BC".

<sup>81</sup> See JGS CF 28.

<sup>82</sup> *Id.*

<sup>83</sup> See August 3, 2021, JGS CF 28 Response.

<sup>84</sup> See NOI at 5 -7.

<sup>85</sup> See JGS CF 28 (attachment 2 &3) and US Sunergy CF 28?.

MasterBrand argues that US Sunergy's claim that Polygonplus manufactured its WCV in Malaysia is false.<sup>86</sup> US Sunergy failed to provide necessary production records support its claims that Polygonplus manufactured its merchandise in Malaysia.<sup>87</sup> As noted above, US Sunergy described its usage of a purchasing agent to facilitate sales of WCV, but MasterBrand states the importer did not explain how the agent performs quality control, whether it obtained any samples, or if it can provide a description of the process from initiation of an order to payment.<sup>88</sup> US Sunergy stated that Polygonplus is its "only supplier" in response to CBP's request for a list of its suppliers of WCV as well as an explanation as to how the company identified and selected its manufacturers.<sup>89</sup> CBP agrees with MasterBrand's assertion that US Sunergy failed to provide CBP with adequate evidence of production.

MasterBrand further argues that US Sunergy's initial RFI response was deficient resulting in the issuance of a detailed supplemental request for information covering a wide range of topics from the initial questionnaire.<sup>90</sup> CBP agrees with MasterBrand that the initial RFI response from US Sunergy was deficient resulting in an issuance of a supplemental RFI.

### **Determination as to Evasion**

The previously discussed facts on the record establish that there is substantial evidence that Chinese-origin wooden cabinets and vanities were imported into the United States by evasion, specifically via transshipment through Malaysia. The evidence provided in the allegation and the application of adverse inferences also support CBP's determination that the wooden cabinets and vanities imported by ZL Center, USGS, JGS, and US Sunergy from Malaysia were instead from China. Furthermore, evidence on the record indicates that the importers entered the Chinese-origin WCV into the United States as type 01 entries and evaded the payment of AD/CVD duties on WCV from China, by misrepresenting the WCV as Malaysian origin.<sup>91</sup> The WCV that the importers entered from Polygonplus during the period of investigation were subject to the AD/CVD rates on WCV from China.<sup>92</sup>

### **Actions Taken Pursuant to the Affirmative Determination of Evasion**

In light of CBP's determination that ZL Center, USGS, JGS, and US Sunergy 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 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 the importers' continuous bonds in accordance with CBP's policies and may

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<sup>86</sup> See Written arguments at 2.

<sup>87</sup> See October 22, 2021, US Sunergy RFI Letter from CBP to US Sunergy Corp., re: EAPA Cons. 7614 Request for Information.

<sup>88</sup> See US Sunergy RFI at 3.

<sup>89</sup> See *Id.* at 11.

<sup>90</sup> See Letter from CBP to US Sunergy Corp., re: EAPA Cons. 7614 Request for Information supplemental.

<sup>91</sup> 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>.

<sup>92</sup> ZL Center, USGS, JGS, and US Synergy's WCV entries are subject to the "China-Wide Entity" rate of 251.64 percent for AD case A-570-106 and the "All-Others" rate of 20.93 percent for CVD case C-570-107. These two rates equal a combined rate of 272.57 percent. See the *Orders*.

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 "Brian" being the most prominent.

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