



U.S. Customs and Border Protection

PUBLIC VERSION

November 17, 2022

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Re: Notice of Initiation of Investigation and Interim Measures - EAPA Case 7722

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

The purpose of this notice is to inform you that U.S. Customs and Border Protection (CBP) has commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA). CBP is investigating whether Vanguard Trading Company LLC (the Importer) evaded antidumping (AD) and countervailing duty (CVD) orders A-570-084 and C-570-085 (AD/CVD Orders) on quartz surface products (QSP) from the People's Republic of China (China) when importing QSP into the United States.¹ CBP has imposed interim measures because the evidence supports a reasonable suspicion that the Importer entered merchandise covered by the AD/CVD Orders into the customs territory of the United States through evasion.²

Period of Investigation

Pursuant to 19 CFR 165.2, entries covered by an EAPA investigation are “those entries of allegedly covered merchandise made within one year before the receipt of an allegation...” Entry is defined as an “entry, or withdrawal from warehouse for consumption, of merchandise into the customs territory of the United States.”³ CBP acknowledged receipt of the properly filed

¹ See *Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders*, 84 Fed. Reg. 33053 (Dep't Commerce July 11, 2019).

² See 19 USC 1517(e); see also 19 CFR 165.24.

³ See 19 USC 1517(a)(4); see also 19 CFR 165.1.

Allegation⁴ against the Importer on July 21, 2022.⁵ Therefore, the entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from July 21, 2021, through the pendency of this investigation.⁶

Initiation

On August 11, 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 Cambria Company LLC (the *Alleger*)⁷ regarding evasion of the AD/CVD Orders by the Importer.⁸ In its Allegation, the *Alleger* asserts that available information reasonably suggests that the Importer evaded the AD/CVD Orders by failing to declare that the slab products it is importing are actually QSP from China.⁹ Specifically, the Allegation suggests that the Importer imports merchandise as "artificial marble" when that merchandise should properly be described as QSP, subject to the AD/CVD Orders. As a result, the Importer has failed to pay AD/CVD duties on the QSP it has been importing from China to the United States.¹⁰ The basis for this Allegation follows:

The *Alleger* states that the Importer is importing a brand of engineered countertop surfaces named Lucciare (also known as FriTech),¹¹ manufactured by a Chinese producer named Foshan Monica Quartz Stone Co. Ltd. (Supplier1) and exported to the Importer by a Chinese logistics company, Shenzhen Guangmaoxin Import and Export (Supplier2).¹² The *Alleger* indicates that the Importer appears to be importing this product as artificial marble, according to data from [name].¹³

Lucciare is a brand of engineered countertop surfaces that is a registered trademark of a company named Ciotolo, Inc. (Ciotolo).¹⁴ Ciotolo also has a trademark application for Syntek Marble.¹⁵ Greta Ma, the managing director of a company named Ameri Home Designs (AHD), lists herself on LinkedIn as the general manager of the Lucciare brand of products.¹⁶ The *Alleger* further shows a connection between the Lucciare products and AHD by providing an invoice for the sale of Lucciare products that lists AHD as the seller.¹⁷

⁴ See "Quartz Surface Products from the People's Republic of China: Request for an Investigation under the Enforce and Protect Act of Vanguard Trading Co." (Allegation), dated July 11, 2022.

⁵ See July 21, 2022, email entitled "EAPA 7722 - Receipt of Properly Filed Allegation."

⁶ See 19 CFR 165.2.

⁷ The *Alleger* is a domestic producer of QSP and the petitioner before the U.S. Department of Commerce (DOC) and the U.S. International Trade Commission (ITC) in the original AD/CVD investigations; therefore, the *Alleger* is an interested party as defined by 19 USC 1517(a)(6) and 19 CFR 165.1.

⁸ See CBP Memorandum, "Initiation of Investigation for EAPA Case 7722—Vanguard Trading Company LLC," dated August 11, 2022.

⁹ The *Alleger* initially filed three separate allegations against U.S. importers Ameri Home Designs, Inc., Ciotolo Inc., and Vanguard Trading Co. However, the *Alleger* voluntarily withdrew the two allegations against Ameri Home Designs and Ciotolo Inc.

¹⁰ See Allegation at 1-2.

¹¹ *Id.* at Exhibit 7.

¹² *Id.* at Exhibits 12, 15, and 18.

¹³ *Id.* at Exhibits 12 and 18.

¹⁴ *Id.* at 6 and Exhibit 5.

¹⁵ *Id.* at 6 and Exhibit 4. Syntek Marble's patent application shows a direct connection between AHD and Ciotolo.

¹⁶ *Id.* at 6 and Exhibits 8 and 9.

¹⁷ *Id.* at 7 and Exhibit 10.

Although Ciotolo appears to be registered as a New Jersey based corporation, Greta Ma is listed as its Managing Director, with a California address, on the Syntek Marble trademark application.¹⁸ Lucciare’s profile on LinkedIn and on its website lists its address as 533 Airport Blvd, Suite 400, Burlingame, CA 94010 (Burlingame address).¹⁹ This address is also associated with AHD and Ciotolo, depending on the source documents, and is the address listed for the Importer in the [name] trade data.²⁰ The Burlingame address is a “virtual office space” located at the Airport Corporate Center in Burlingame, CA, and it can be rented by numerous parties at the same time.²¹ As a result, it appears Ciotolo, AHD, and the Importer are all interconnected companies and may be acting in concert to evade the AD/CVD Orders; in addition, and as described below, they seem to have a connection to Supplier1 as well .

The Allegor claims that Supplier1, a known Chinese producer of QSP, is producing the Lucciare product. Mr. Jinpan Chen is listed on LinkedIn as the R&D engineer for Supplier1 and a consultant for products development and business strategy for Lucciare brand products.²² Mr. Chen is based in Foshan, Guangdong Province, China, and applied for the patent for the FriTech product sold by Lucciare.²³ The Allegor claims that Supplier2, which is listed in the [name] trade data as the producer of the “artificial marble” being imported by the Importer, must only be a logistics company because its only export history in [name] involves the merchandise at issue.²⁴ In addition, the company has no internet presence.²⁵ The Allegor avers that Supplier2 is being used by Supplier1 to ship “artificial marble” to the United States in a manner that will obscure the true identity of the producer.²⁶

Although AHD markets a countertop material under the Lucciare brand called “FriTech” as a completely new and different material from QSP, the Allegor states that the Lucciare products look the same as QSP and appear to be covered by the scope of the AD/CVD Orders.²⁷ According to the Lucciare website and the patent application, the brand’s products are primarily made from fritted sand, which is a byproduct of iron and steel production. The fritted sand consists of 60% to 80% silica (SiO₂).²⁸ In total, the patent for the FriTech products states that product is comprised of the following raw materials in parts by mass:

- 60-80 parts of fritted sand;
- 10-30 parts of quartz powder;
- 9-14 parts of terephthalic unsaturated polyester resin;
- 0.6-1 parts of curing agent;
- 0.8-1 parts of coupling agent;
- 0.5-1 parts of pigment paste;
- 0.1-1 parts of pigment powder.²⁹

¹⁸ *Id.* at Exhibits 3 and 4.

¹⁹ *Id.* at Exhibit 6 and 7.

²⁰ *Id.* at Exhibit 12 and 18.

²¹ *Id.* at 7 and Exhibit 14.

²² *Id.* at 8 and Exhibits 15-16.

²³ *Id.* at 8 and Exhibits 16-17.

²⁴ *Id.* at 8.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 9.

²⁸ *Id.* at 10 and Exhibit 17.

²⁹ *Id.* at 10 and Exhibit 17.

Since quartz powder is pure silica, this combined with the fritted sand, would make the Lucciare countertop/slab products covered by the scope of the AD/CVD Orders. The scope of the AD/CVD Orders states that to be considered QSP, a product must contain 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). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the orders. However, the scope of the orders only includes products where the silica content is greater than any other single material, by actual weight.”³⁰ Although the Lucciare products appear to be covered by the scope, the Alleger states that it believes no AD/CVD duties are being collected based on the description on the website where Lucciare is marketed as an alternative to “traditional quartz surface{s}” and the [name] trade data, which indicates it is being manifested as artificial marble.³¹

The Alleger submits that the evidence described above reasonably suggests that QSP subject to the AD/CVD Orders has entered into the United States through evasion.

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.”³² 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.”³³ Thus, the allegation must reasonably suggest not only that merchandise covered by an AD and/or CVD order was entered into the customs territory of the United States by the importer through evasion, but also 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 claims made and evidence provided in the Allegation, TRLED finds that the Allegation reasonably suggests that the Importer may have engaged in attempts to evade the AD/CVD Orders by failing to declare the merchandise imported as covered by the AD/CVD Orders. Specifically, the Alleger has submitted documentation reasonably available to support these claims, including the [name] trade data showing shipments from Supplier2 to the Importer; evidence that the imported products are likely produced by Supplier1; documents linking Supplier1 to Mr. Chen, Mr. Chen to Lucciare, and Lucciare to Ms. Ma and AHD (indicating these companies may be acting in concert to avoid the AD/CVD duties for these products); documents showing a common Burlingame address for AHD, Ciotolo and the Importer; and evidence that the Lucciare brand FriTech products are primarily produced from fritted sand, which has a silica content ranging from 60 percent to 80 percent, and quartz powder,

³⁰ *Id.* at 3 and Exhibit 1.

³¹ *Id.* at 11 and Exhibit 7.

³² See 19 USC 1517(b)(1); see also 19 CFR 165.15(b).

³³ See 19 CFR 165.1; see also 19 USC 1517(a)(5)(A) (setting forth the definition of “evasion”).

which is pure silica, indicating that the imported products likely are covered by the scope of the AD/CVD Orders.³⁴

Interim Measures

Not later than 90 calendar days after initiating an investigation under EAPA, TRLED will decide based on the record of the investigation if there is reasonable suspicion that merchandise covered by the AD/CVD Orders was entered into the United States through evasion. CBP need only have sufficient evidence to support a reasonable suspicion that the importer alleged to be engaged in evasion entered merchandise covered by an AD or CVD order into the customs territory of the United States by a materially false statement or act, or material omission that resulted in the reduction or avoidance of applicable AD or CVD cash deposits or other security. If reasonable suspicion exists, CBP will impose interim measures pursuant to 19 USC 1517(e) and 19 CFR 165.24. As explained below, CBP is imposing interim measures because, based on the record evidence, there is a reasonable suspicion that the Importer entered covered merchandise into the customs territory of the United States through evasion by failing to declare the subject Chinese-origin QSP.³⁵

CBP Form 28 (CF-28) Responses

On August 29, 2022, CBP issued a CF-28 Request for Information to the Importer for entry number [no.]7687 (entry 7687),³⁶ followed by a second CF-28 for entry number [no.]9748³⁷ (entry 9748) on August 30, 2022. In the CF-28 requests, CBP asked the Importer to provide the following information:

The commodity imported is classified as Other Stone/6.5%. Customs and Border Protection is requesting technical literature, diagrams, photographs, brochures, and/or other pertinent information. Provide a manufacturer's affidavit with the description of the product and the manufacturing process. Provide entry transaction information including the original commercial invoice, proof of payment, Purchase Order and all Bills of Lading (Master and Through Bills of Lading). Explain why the product being imported is not subject to ADCVD Cases A-570- 084/C-570-085 for Quartz Surface Products from China.

Entry 7687 Response

On August 29, 2022, CBP timely received the CF-28 response for entry 7687,³⁸ with the following documents included: CBP Form (CF) 7501 declaring A grade artificial marble classified under HTS 6802.99.0060 with the total invoice value of [no.]; CF 3461; commercial invoice, dated January 20, 2022, from Supplier2 listing the artificial marble material as Melody and Rhapsody; packing list; Bill of Lading (BOL) identifying Supplier2 as the shipper and stating for delivery of goods apply to Starlink Freight System SFO Inc. (Starlink Freight), issued in Hong Kong and dated February 11, 2022; and the Starlink Freight issued arrival notice,

³⁴ See Allegation at 2 and 10.

³⁵ See 19 CFR 165.24(a).

³⁶ See August 30, 2022, Entry 7687 CF-28 Request.

³⁷ See August 30, 2022, Entry 9748 CF-28 Request.

³⁸ See August 30, 2022, and September 30, 2022, Entry 7687 CF-28 Responses (Entry 7687 CF-28 Responses).

indicating the goods were consigned to the Importer and addressed to the attention of [name name]. On the entry filed with CBP, the Importer is listed as the importer of record and Supplier2 is listed as the manufacturer.

On September 30, 2022, the Importer sent CBP additional product information for entry 7687 on the nature of the product and how it is made. The documents provided included information that FriTech surface stone, a product of Lucciare, has a patent pending called “An Environment friendly Artificial Stone with Low Cost and High Strength and A Preparation Method Thereof;”³⁹ documents attesting to how the FriTech products are produced and their material composition; and a product brochure listing the names and product numbers for countertop/slab products under the Lucciare, Polarstone⁴⁰ and [nam] brand collections.⁴¹ Although the documents provided spoke to the manufacturing process, CBP did not receive the requested affidavit statement from the manufacturer; therefore, CBP is still not certain who actually manufactures the products being imported.

The below flow chart in the CF-28 response shows how Lucciare Organic Engineered Stone is made.⁴²



The flow chart describes how the [list of materials content], then essentially the [production process], So even though the intermediate product is called [name], the flow chart shows that the [end results of the production], thus meaning the end product is covered by the AD/CVD Orders.⁴³

³⁹ Note the Alleger provided a copy of this patent application in Exhibit 17 of the Allegation.

⁴⁰ In the Allegation at Exhibit 15, a Stone World news article entitled “Designing Own Machinery to Produce Quartz Products,” discusses the fact that Supplier1 “sells its products to North America through its affiliated brand of PolarStone U.S.”

⁴¹ See Entry 7687 CF-28 Responses.

⁴² *Id.*

⁴³ *Id.*

In sum, the FriTech product information brochure and its related patent for entry 7687 suggest that the products entered are FriTech products and that the products are composed of a mixture of materials that includes predominately silica.⁴⁴ Furthermore, the FriTech patent indicated that the surface products are made with fritted sand, which is a byproduct of mining and iron and steel production.⁴⁵ The patent states that the product is comprised of the following raw materials in parts by mass: 60-80 parts of fritted sand; 10-30 parts of quartz powder; 9-14 parts of terephthalic unsaturated polyester resin; 0.6-1 parts of curing agent; 0.8-1 parts of coupling agent; 0.5-1 parts of pigment paste and 0.1-1 parts of pigment powder.⁴⁶ Therefore, the FriTech products “Preparation Method Thereof” falls within the scope definition of the AD/CVD Orders because the product’s content includes mostly silica by weight (*i.e.*, the combination of fitted sand (mostly silica) and quartz powder (all silica)).

Entry 9748 Response

On September 30, 2022, CBP received the CF-28 response from the Importer’s counsel for entry 9748.⁴⁷ The documents package submission includes [name] Invoices; an arrival notice from Starlink Freight to the Importer, indicating the goods were consigned to the Importer and addressed to the attention of [name]; an arrival notice/chargeable items form for [no.]; bill of lading for [no.]; purchase order (PO); [name] product data sheet; [name] fabrication and installation manual; [name] health product declaration; [name] safety data sheet; and a payment invoice for ocean freight charges. CBP did not receive the requested affidavit statement from the manufacturer; therefore, CBP is still not certain who actually manufactures the products being imported.

The [name and no.], dated January 18, 2021, indicates that product being imported is “Bianca Sabia ½’x30’x144, veined acrylic sheet ([no.]), Lighter color for [no.],” with value of [no.] from the vendor, [name DBA name at address location

] (Zhuhai address). Additionally, the PO revealed that another U.S. importer, [name and no.] issued a PO to [name] for the merchandise in the entry.

However, the documents included also contained commercial invoice number [no.] and packing list, with PO number [no.] listed on both documents, dated March 11, 2021, from a [name], which is located at the same Zhuhai address as [name], with the buyer listed as the Importer, the information “to [address], and the total value of [no.]. The entry declared to CBP shows the Importer as importer of record and lists the manufacturer as [name]. Thus, the CF-28 response shows numerous entities involved in the same transaction, in what could be an attempt to obfuscate where the goods come from and what the goods actually are made of.

⁴⁴ See September 30, 2022, Entry 7687 CF-28 Response.

⁴⁵ See Allegation, at Exhibit 17.

⁴⁶ *Id.*

⁴⁷ See September 30, 2022, Entry 9748 CF-28 Response (Entry 9748 CF-28 Response). In addition to the CF-28 questions asked for entry 7687, this CF-28 also requested that the Importer “Please provide a clear and concise breakdown of this product’s material composition.”

In this entry package, regarding the nature of the goods, the Importer provided a patent from the World Trade Organization, published February 4, 2021, for a product entitled “Artificial Agglomerate Stone Article comprising Synthetic Silicate Granules, with an SiO₂ content between 52% and 60% by weight,” (WTO patent), in addition to the [name] fabrication and installation manual; [name] health product declaration; and [name] safety data sheet. The Summary section of the WTO patent includes this information,⁴⁸ which again suggest the products being imported are mainly comprised of silica by weight:

30 Thus, in a first aspect, the invention is concerned with synthetic silicate granules comprising:

- 52.50 - 59.80 wt.% of SiO₂,
- 33.50 - 41.10 wt.% of Al₂O₃, and
- 0.30 - 3.10 wt.% of Na₂O,

Overall, in response to both of the CF-28s, the Importer provided documents suggesting the products being imported in each entry are made of predominantly silica by weight and contain resin binders; thus, the products meet the description of the scope of the AD/CVD Orders. The Importer provided no explanation or evidence contrary to the information provided in the patents to counter CBP’s understanding of the products being imported. For entry 7687, the FriTech products “Preparation Method Thereof” falls within the scope definition of the AD/CVD Orders because the product’s content includes mostly silica by weight (*i.e.*, the combination of fitted sand (mostly silica) and quartz powder (all silica)). For entry 9748, the WTO patent provided with the CF-28 response also appears to demonstrate that the imported product contains a majority of silica by weight, based on a review of the patent language, meaning the resulting product would be covered by the scope of the AD/CVD Orders.

The documents provided for both CF-28 responses cast doubt on who the ultimate producer is of the products being made in China, but there is no dispute the products are manufactured in China. For example, the BOL and the arrival notice for entry 9748 indicates two different shippers/suppliers, [name and name],⁴⁹ sharing a common Zhuhai address. The PO number listed on one arrival notice is [no.] and the description of the goods is listed as “B- Grade reinforced artificial stone.” However, another document in the CF-28 response for the same entry listed the PO number as [no.], with the description of the goods as Bianca Sabia ½’x30’x144’ veined acrylic sheet ([no.]), Lighter color for AIA. Finally, a third shipping document listed the PO number as [no.], with the description of the goods as “acrylic solid surface.” Confusingly, the commercial invoice and the packing list from [name] indicated the total value of [no.] for the products matching PO number [no.], which is different from the value indicated in the [no.], which has a total amount of [no.].⁵⁰

Therefore, both entries appear to be comprised of covered merchandise that entered the United States without payment of the applicable AD/CVD duties. CBP finds there is reasonable

⁴⁸ *Id.*

⁴⁹ See CBP memo to file, dated November 4, 2022, at Attachment 1 for the NSF International Certificate.

⁵⁰ See September 30, 2022, Entry 9748 CF-28 Response.

suspicion that the Importer entered covered merchandise through failure to claim the products as subject to the AD/CVD Orders upon entry to the United States.

Enactment of Interim Measures

Based on the record evidence, as discussed above, CBP determines that reasonable suspicion exists that the Importer imported the QSP that contains a mixture of materials that includes predominately silica, into the United States from China that were, in fact, covered merchandise and should have been subject to the AD/CVD Orders. Therefore, CBP is imposing interim measures on the Importer's imports of QSP into the United States.⁵¹ Specifically, in accordance with 19 USC 1517(e)(1)-(3), CBP will:

- (1) suspend the liquidation of each unliquidated entry of such covered merchandise that entered on or after August 11, 2022, the date of the initiation of the investigation;
- (2) pursuant to the Commissioner's authority under section 1504(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 1623, 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.⁵²

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

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/>.⁵³

⁵¹ See 19 USC 1517(e); see also 19 CFR 165.24.

⁵² See also 19 CFR 165.24(b)(1)(i)-(iii).

⁵³ See 19 CFR 165.4; see also 19 CFR 165.23(c); see also 19 CFR 165.26.

Should you have any questions regarding this investigation, you may contact us at eapallegations@cbp.dhs.gov and cc: somboun.dauble@cbp.dhs.gov and stephanie.l.berger@cbp.dhs.gov with “EAPA Case 7722” in the subject line of your email. Additional information on this investigation, including the applicable statute and regulations, may be found on CBP’s website at: <https://www.cbp.gov/trade/trade-enforcement/tftea/eapa>.

Sincerely,

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

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